



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CRM-M-21107-2024

Date of decision: 03.07.2024

Karandeep Singh and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Amandeep Singh Jawandha, Advocate
for the petitioners.

Mr. Shiva Khurmi, AAG, Punjab.

Mr. L.S. Lakhanpal, Advocate
for respondent No.2.

MANJARI NEHRU KAUL, J.

1. The instant petition is for quashing of FIR No.12 dated 28.01.2024 under Sections 392, 307, 451 of IPC and Section 25 of the Arms Act, 1959 registered at Police Station City Patti, District Tarn Taran and all consequential proceedings arising out of the same, on the basis of compromise dated 06.04.2024 (Annexure P-2) arrived at, between the parties.

2. Learned counsel appearing for the petitioners submits that subsequent to the registration of the FIR in question, with the intervention of the respectables and other well wishers, the parties have amicably settled their differences and arrived at an amicable settlement vide compromise dated 06.04.2024 (Annexure P-2). Hence, in the aforementioned circumstances, continuation of criminal proceedings would serve no useful purpose as it would be a futile exercise; the FIR



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in question along with all consequential proceedings arising therefrom therefore, deserve to be quashed.

3. Learned counsel appearing for respondent No.2/complainant has not disputed the submissions made by the counsel opposite with respect to the purported compromise effected between the parties and also does not oppose the prayer made for quashing of the FIR and subsequent proceedings.

4. Learned State counsel has, however, vehemently opposed the prayer and submissions made by the counsel for the parties for quashing of the FIR in question on the basis of the compromise effected between them. It has been asserted by the learned State counsel that a perusal of the FIR in question which has been annexed as Annexure P-1 reveals that it was a pre-planned attack carried out by the petitioners who were both armed with firearms; the petitioners upon entering the clinic of the complainant, without any provocation, whatsoever, repeatedly fired towards the complainant; the complainant had a providential escape. A hue and cry was raised attracting the neighbouring shopkeepers, who apprehended both the accused at the spot and then handed them over to the police along with their firearms used in the occurrence in question. Empties of the bullets fired by the petitioners were also recovered from the place of occurrence besides other incriminating evidence.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. Before proceeding further, it would be relevant to



reproduce the contents of the FIR which read as under:-

“Statement of Harmandeep Singh son of Gurdev Singh son of Vasan Singh, resident of Ward Number 5, Near old Power House, Kandyala Road Patti, aged about 26 years, ears, Mobile Number 7009691538 suffered a statement that I am the. resident of above cited address and I work at Baba Deep Singh Clinic Ward No. 5 near Saheed Bhagat Singh School Patti in rented shop of Manjit Singh s/o Dilbagh Singh by opening a lab as I have done of Pharma Assist and we are two brothers and my younger brother Amritpal Singh also works with me in the shop. My father was constable in Police who suddenly expired in 2023 and the whole responsibility of the house came on both of us brothers and by working on clinic we lead our life. Today I was working on the clinic then at about 4 PM two haircut youth who were having motorcycle bearing number PB 46T 6820 of Bajaj make came on my shop and one person from them took out the pistol and pointed at me and told me that whatever money and jewellery I have, I should hand over to them, otherwise they will kill me. When I started getting up from my seat. Then in order to kill me, he fired upon me, which suddenly hit on the side and by hitting on the cover of the table it hit the back side and then by making effort I caught hold his wrist in which he was holding pistol and his other companion, who was inside started struggling with me and fighting and he fired two more shots and one hit the medicine Almera and second bullet hit the wall and by that time my brother Amritpal Singh came on the spot and he caught hold of the second person and after hearing the noise of the gun shots, the nearby shopkeepers namely Hira Singh son of Anoop Singh, Lalit Kumar son of Mohanlal and other shopkeepers started gathering and with their help, we apprehended both these persons and we also took the pistol from them. And the persons who were apprehended their name and address are as, the person who fired the gun shots is Karj Singh son of Waryam Singh resident of Patti Lakhu. Viryam ki kerron and the name of the second person is Nishan Singh son of Jermam Singh son of Fiqueer Singh resident of Patti Hathi Ki Kairon and they were man handled by the public which had gathered on the spot and we called Police by dialling number 100 and you reached along with Police party. The motorcycle and the pistol which was used by them, has been handed over to you along with the accused. The above stated persons by threatening by life first demanded money and in order to kill me fired upon me. Legal action be kindly taken against them. I have given you my statement in presence of my brother. Amritpal Singh, which I have heard and is



correct. S/d Harmandeep Singh, s/d Amritpal Singh.”

7. Undoubtedly, in cases where the offences are private in nature and the parties have amicably settled their disputes, the Courts should unhesitatingly quash the FIR based on the compromise reached between the parties. However, while the inherent powers of this Court under Section 42 of the Cr.P.C. are, no doubt, broad, these are not without limits and must be exercised sparingly, with great caution and circumspection. Hon'ble the Supreme Court has repeatedly articulated in its various judicial pronouncements for a nuanced approach in handling serious and grave offences, including offences under Section 307 of the IPC. These offences are serious and typically considered as crimes against the society. It would be apposite to refer to the observations of Hon'ble the Supreme Court in ***Criminal Appeal No.349 of 2019 titled as 'The State of Madhya Pradesh Vs. Laxmi Narayan and others' decided on 05.03.2019***, relevant extract of which is reproduced as under:-

“9.3 In the case of Narinder Singh vs. State of Punjab (2014) 6 SCC 466, after considering the decision in the case of Gian Singh (supra), in paragraph 29, this Court summed up as under:

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has



inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or*
- (ii) to prevent abuse of the process of any court.*

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead



to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.”

14. Insofar as the present case is concerned, the High



Court has quashed the criminal proceedings for the offences under Sections 307 and 34 IPC mechanically and even when the investigation was under progress. Somehow, the accused managed to enter into a compromise with the complainant and sought quashing of the FIR on the basis of a settlement. The allegations are serious in nature. He used the fire arm also in commission of the offence. Therefore, the gravity of the offence and the conduct of the accused is not at all considered by the High Court and solely on the basis of a settlement between the accused and the complainant, the High Court has mechanically quashed the FIR, in exercise of power under Section 482 of the Code, which is not sustainable in the eyes of law. The High Court has also failed to note the antecedents of the accused.”

8. Further, Hon'ble the Supreme Court in ***P. Dharamaraj Vs.***

Shanmugam and others : 2022 LiveLaw (SC) 749 has observed as

under:-

“41. In Parbatbhai Aahir (supra), referred to by the High Court in the impugned order, a 3 member Bench of this Court again summarised the broad principles on this question in paragraph 16. Paragraph 16.6 and 16.8 to 16.10 of the decision read as follows:-

“16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause



oppression and prejudice; and

16.10. There is yet an exception to the principle set out in propositions 16.8. and 16.9. above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”

42. Thus it is clear from the march of law that the Court has to go slow even while exercising jurisdiction under Section 482 Cr.PC or Article 226 of the Constitution in the matter of quashing of criminal proceedings on the basis of a settlement reached between the parties, when the offences are capable of having an impact not merely on the complainant and the accused but also on others.”

9. Turning to the case at hand, a perusal of the FIR (Annexure P-1) prima facie reveals that the accused-petitioners carried out a premediated attack upon the complainant; the petitioners pointed a loaded pistol towards the complainant and fired repeatedly towards him, and in the process struck against the table as well as walls. The complainant indeed had a providential escape; both the petitioners were apprehended at the spot along with their firearms and handed over to the police by the general public.

10. It is also pertinent to point out that the sanction of the District Magistrate is required against the accused for offences under the Arms Act, 1959, however, the District Magistrate is not even a party to this petition much less to the compromise so effected between the parties. On this ground also the criminal proceedings against the petitioners cannot be quashed in the present case.



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11. In the light of the law laid down by Hon'ble the Supreme Court in Laxmi Narayan's case (supra) and P. Dharamaraj's case (supra) and given the facts and circumstances of the case, prima facie it comes across as a premediated and unprovoked attack which indeed would have impacted the society at large, not just the complainant, individually. It is the duty of the State to prosecute such offenders of crime against society.

12. As a sequel to the above, this Court is not inclined to invoke its inherent jurisdiction under Section 482 of the Cr.P.C. to quash the FIR in question. Accordingly, the instant petition is hereby dismissed.

13. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

03.07.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No