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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision : 11.09.2024

Dilber Khan and Ors.

..... Petitioners

V/S

State of Punjab and Anr.

..... Respondents

CORAM : HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present: Mr. H.P.S.Ghuman, Advocate for petitioners.

Mr. Gautam Thapar, AAG, Punjab.

Mr. Lakshay Goel, Advocate with
Mr. Mayank Kalra, Advocate and
Mr. Rohit, Advocate for respondent No.2.

AMARJOT BHATTI J.

1. Petitioners – Dilber Khan, Sikandar Khan, Karsaid and Jeet Khan have filed this petition under Section 482 Cr.P.C. for quashing of FIR No.247 dated 07.11.2020 (Annexure P-1), under Sections 307, 506, 34 of IPC (charges framed under Sections 307, 323, 506, 201, 34 of IPC), registered at Police Station Sadar Nabha, District Patiala on the basis of compromise dated 28.10.2022 (Annexure P-2).

2. Facts of the case are that Sunita Rani filed application alleging that she is doing job in Punjab Police. She got married with Dilber Khan about 12 years ago and out of this wedlock, she is having two children. Her husband is working in Channo Pepsi factory. On 06.11.2020, she was sitting in the courtyard along with children and at about 7:15 PM, her husband Dilber Khan demanded her ATM card which she refused to give. On this Dilber Khan started fighting with her. He called his brother

Sikandar Khan that she was not giving her ATM card. In the meantime,

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her younger brother-in-law armed with rod, Jeet Khan armed with axe, Dilber Khan armed with danda and mother-in-law Karsaid @ Sado attacked her. Her mother-in-law caught hold of her and her brother-in-law gave rod blow with the intention to kill her which hit on her forehead above left eye. Her father-in-law gave kick blows. She was caused several injuries. In the meantime, her neighbour Harpreet Kaur reached there and people started gathering there. On this all the assailants left the spot giving her threats to kill her.

3. Petitioners filed this petition for quashing of aforesaid FIR on the basis of compromise. Petitioners and respondent No.2 were directed to appear before the trial Court/Illaq Magistrate for recording their statements on the basis of compromise. Detailed report regarding compromise has been received from the court of Additional District and Sessions Judge, Patiala dated 27.05.2024. Statement of respondent No.2 has been recorded, where she confirmed the compromise with petitioners. She confirmed that this compromise has been effected without any pressure, coercion or undue influence from any side and she has no objection regarding quashing of FIR.

4. Petitioners – Dilber Khan, Sikandar Khan, Karsaid and Jeet Khan also confirmed this fact in their joint statement. Statement of ASI Balkar Singh is also recorded who further confirmed that accused are not involved or declared as proclaimed offender in any other criminal case.

5. Therefore, from the report of Additional District and Sessions Judge, Patiala, it is clear that compromise has been effected between parties without any pressure, coercion or undue influence, which is acceptable to both the parties.



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6. I have considered the facts of the case and compromise arrived at between the parties. Gainful reference can be made to the judgment of Apex Court, **“2014(6) Supreme Court Cases 466** titled as ***Narinder Singh and Others versus State of Punjab and Another*”**, where in para No.29 it was observed 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/delicate 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



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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.”

7. As per status report filed by learned counsel representing the State, challan has been presented. In the case in hand parties have arrived at compromise. The reason behind this occurrence was quarrel which took place between husband and wife. Respondent No.1 is mother of two children. This compromise will enable them to live in peace and harmony. Litigation started against each other will come to an end. They are not involved in any other case.

8. Therefore considering these facts, petition filed by petitioners is accepted and FIR No.247 dated 07.11.2020 (Annexure P-1), under Sections 307, 506, 34 of IPC (charges framed under Sections 307, 323, 506, 201, 34 of IPC), registered at Police Station Sadar Nabha, District Patiala is quashed qua petitioners.

9. Accordingly, present petition stands accepted.

10. Pending miscellaneous application(s), if any, stand disposed of accordingly.

(AMARJOT BHATTI)
JUDGE

11.09.2024.

Sunil Devi

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No