



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

323**CRM-M-26173-2024****Date of decision: 21.10.2024****SUMIT AND ANOTHER**

...Petitioners

V/s

STATE OF HARYANA AND ANOTHER

....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Rahul Makkar, Advocate, for the petitioners.

Mr. Praveen Bhadu, AAG, Haryana.

Mr. Amit Kumar, Advocate for respondent No.2.

MANJARI NEHRU KAUL, J. (ORAL)

1. Prayer in this petition filed under Section 482 of the Cr.P.C./528 of the Bhartiya Nagrik Suraksha Sanhita, 2023 (for short 'BNSS') is for quashing of FIR No.456 dated 18.11.2019 under Sections 25/54/59 of the Arms Act and Sections 323, 452, 506, 34 of the IPC (Section 201 of the IPC added later on), registered at Police Station City Bahadurgarh, District Jhajjar on the basis of compromise dated 12.03.2024 (Annexure P-2) along with all consequential proceedings arising therefrom.
2. Learned counsel for the State has vehemently opposed the prayer for quashing of the FIR in question while drawing the attention of this Court to the allegations levelled in the FIR which stands reproduced herein-under:-

"To, Sir Incharge, Sector-9 Bahadurgarh, Sir, It is requested that I Manoj Kumar Bhatia, son of Shri Kanhaiya Lal Bhatia is resident of Housing Board, Sector-9, A, H.N. 3197, Bahadurgarh. Today in the



evening, at around 8.00 pm, I was at home then two persons whom I already know entered in my house. Out of which one is Sumit son of Balwan alias Tola, R/O Naya Gaon and other is Jhabu, resident of Bupania. As soon as they came, they started abusing me and Sumit started beating me and he also slapped and punched me. On hearing the noise, my wife Kiran who was in the kitchen came on the spot and freed me from them and thereafter Sumit said that tomorrow I will come and bring the things and went outside and brought a pistol and as soon as he came, he pointed it at me and said that he will kill you right now. I folded my hands and requested to save my life, thereafter he said that I left you today and if I see him again, I will kill him. After that, both of them went out of my house and sat in a white Santro parked outside and two more people were also sitting in the said car whom I did not recognize. The strictest legal action should be taken against them and I should be given justice. SD Manoj Kumar Bhatia 8930770009.”

3. Learned state counsel has apprised this court that it is not the first time that the petitioners have been involved in a criminal case as it is a matter of record that they are involved in one other criminal case viz. FIR No.59 dated 21.02.2018 under Section 307 of the IPC and under Sections 25/54/59 of the Arms Act registered at Police Station Salhawas, District Jhajjar for which they stand convicted and sentenced to undergo 07 years of rigorous imprisonment. Learned State counsel, thus, prays for dismissal of the instant petition by asserting that in the instant case also the petitioners had threatened the complainant with dire consequences at gunpoint. It has also been brought to the notice of this Court that the previous criminal antecedents of the petitioners have been withheld by the learned counsel in the present petition.



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4. I have heard learned counsel for the parties and perused the relevant material on record including the allegations levelled in the FIR which has been annexed as Annexure P-1.

5. No doubt, in cases where the offences are private in nature and the parties have amicably settled their disputes, the Court should unhesitatingly go ahead and quash the FIR on the basis of the compromise arrived at between the parties. However, inherent powers of this Court under Section 482 of the Cr.P.C/528 of the BNSS though wide, are certainly not unbridled, and thus, have to be exercised sparingly and with a great deal of caution and circumspection.

6. Before proceeding further, it would be apposite to refer to the following observations made by the Hon'ble Supreme Court in its various pronouncements with respect to the quashing of an FIR on the basis of a compromise:-

6A. Hon'ble the Supreme Court in **Daxaben Vs. State of Gujarat, 2022 Live Law (SC) 642** while relying upon the *The State of Madhya Pradesh Vs. Laxmi Narayan and others : (2019) 5 SCC 688* has held as under:-

“47. In State of Madhya Pradesh v. Laxmi Narayan & Ors. 2022 Live Law (SC) 642, a three-Judge Bench discussed the earlier judgments of this Court and laid down the following principles:-

“15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

15.1. That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and



predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved 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;

15.3. Similarly, such power is not to be exercised for the offences under the special statutes 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;

15.4. Offences under Section 307 IPC and the Arms Act, etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act, etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. 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 framing 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. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge-sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paras 29.6 and 29.7 of the decision of this Court in Narinder Singh [(2014) 6 SCC 466: (2014) 3 SCC (Cri) 54] should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;



15.5. While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of noncompoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc.”

6B. In *P.Dharamaraj Vs. Shanmugam and others : 2022 Live Law (SC) 749*, the Hon'ble Supreme Court has cautioned the Courts in the following terms:-

“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.”

7. Adverting to the case in hand, a perusal of the FIR (Annexure P-1) prima facie reveals that serious allegations have been levelled against the petitioners of threatening the complainant with dire consequences, at gunpoint. Still further, the petitioners have not approached this Court with clean hands as the factum of their involvement in another case under Sec 307 IPC has been withheld from this court.

8. Though the matter has been settled between the parties, however, keeping in view the various judicial pronouncements of Hon'ble the Supreme Court, which have been referred to in the earlier part of this order, this Court cannot be expected to turn a blind eye to the previous criminal antecedents of the petitioners.

9. Hence, in the wake of the specific allegations levelled against the petitioners, coupled with the ratio of law laid down by the Hon'ble Supreme Court, this Court does not deem it fit to invoke its inherent jurisdiction under Section 528 of the BNSS to quash the FIR in question.

10. Accordingly, the instant petition is hereby dismissed. 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.

(MANJARI NEHRU KAUL)
JUDGE

October 21, 2024
poonam

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