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

CRM-M-35619-2024

Date of Decision :28.10. 2024

SHIVAM GARG ALIAS SHIMBAM GARG ALIAS KANNU

.....Petitioner(s)

VERSUS

STATE OF PUNJAB AND ANOTHER

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Umesh Aggarwal, Advocate,
for the petitioners.

Mr. Raghav Garg, AAG, Punjab.

Mr. Gaurav, Advocate for
Mr. Prateek Sodhi, Advocate,
for respondent no. 2.

KULDEEP TIWARI, J.(Oral)

1. The instant petition, as cast under Section 482 of the Cr.P.C., proffers the hereinafter extracted relief, as craved by the petitioner(s), inasmuch as, quashing of the FIR No. 38, dated 15.02.2022, under Section(s) 379 and 411 of the IPC, registered at Police Station City Nawanshr, SBS Nagar, as well as judgment dated 17.10.2023, (Annexure P-2), and all the subsequent proceedings arising therefrom, on the basis of a compromise dated 12.07.2024 (Annexure P-4), as entered into *inter se* the petitioner(s) and respondent no.2. He also seeks setting aside of judgment of conviction and order of sentence dated 17.10.2023,



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(Annexure P-2), passed by the learned Chief Judicial Magistrate, SBS Nagar, whereby he has convicted and sentenced for a period of 6 months under Section 411 IPC.

2. Upon an affirmative response from the learned counsel for respondent no.2 *qua* the compromise (Annexure P-4), this Court had, through an order drawn on 22.08.2024,, upon the instant petition, besides issuing notice, directed the parties to appear before the learned trial Court/*Illaqa* Magistrate concerned, for getting their respective statements recorded *qua* authenticity of the compromise (Annexure P-4). Moreover, the trial Court/*Illaqa* Magistrate concerned was also directed to send a report in the above regard.

3. Consequent to the making of the directions (*supra*), the parties appeared before the learned Chief Judicial Magistrate, SBS Nagar, and got their respective statements recorded, thereby authenticating the compromise (Annexure P-4). Accordingly, in compliance of the directions (*supra*) of this Court, a Report bearing No.858, dated 08.10.2024, has been received from the learned magistrate concerned, wherein, a satisfaction has been recorded by him/her *qua* the compromise (*supra*) being drawn in a genuine and voluntary and without any pressure or coercion and out of free will of the parties.

4. This Court have heard counsel for the parties and gone through the case file.

5. The Hon'ble Supreme Court, in the case of "***Narinder Singh***



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and others Vs. State of Punjab and other”, (2014) 6 Supreme court cases 466. The relevant paragraph of this judgment is extracted hereinafter:-

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 a 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



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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 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.”

6. A Co-ordinate Bench of this Court, in **CRM-M-25669-2020**

(O&M), titled “Abhishek Singh & others V/s State of Punjab & others”, Pronounced on: 07.04.2022, while granting a similar relief, as craved in the instant petition, has observed as under:-

“9. The following aspects would be relevant to conclude this petition:-



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- a) The accused and the private respondents have amicably settled the matter between them in terms of the compromise deed and the statements recorded before the concerned Court;*
- b) A perusal of the documents reveal that the settlement has not been secured through coercion, threats, social boycotts, bribes, or other dubious means;*
- c) The victim has willingly consented to the nullification of criminal proceedings;*
- d) There is no objection from the private respondents in case present FIR and consequent proceedings are quashed;*
- e) In the given facts, the occurrence does not affect public peace or tranquillity, moral turpitude or harm the social and moral fabric of the society or involve matters concerning public policy;*
- f) The rejection of compromise may also lead to ill will. The pendency of trial affects career and happiness;*
- g) There is nothing on the record to prima facie consider the accused as an unscrupulous, incorrigible, or professional offender;*
- h) The purpose of criminal jurisprudence is reformatory in nature and to work to bring peace to family, community, and society;*
- i) The exercise of the inherent power for quashing the conviction, sentence and all previous proceedings is justified to secure the ends of justice.”*

7. In the light of the hereinabove recorded aspects and considering the fact that the offences, for which the petitioners been charged, are not of grave in nature, as also in view of the law laid down in ***Gian Singh Vs. State of Punjab and another, 2012 (4) RCR (Criminal) 543*** and ***Kulwinder Singh, others Vs. State of Punjab 2007(3) RCR (Criminal) 1052***, the present petition for quashing the FIR (supra) is hereby **allowed**.

8. Resultantly, FIR No. 38, dated 15.02.2022, under Section(s) 379 and 411 of the IPC, registered at Police Station City Nawanshshr, SBS Nagar, and all the subsequent proceedings arising therefrom, are, hereby, **quashed** on the basis of a compromise (Annexure P-4), *qua* the

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present petitioner(s), subject to payment of Rs.5,000/- to be deposited with the District Legal Services Authority concerned.

9. Consequently, judgment of conviction and order of sentence dated 17.10.2023, (Annexure P-2), passed by the learned Chief Judicial Magistrate, SBS Nagar, is also hereby **set aside**.

10. All pending application(s), if any, also stand **disposed** of accordingly.

October 28, 2024*dharamvir***(KULDEEP TIWARI)**
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No