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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 10.04.2024

+ CRL.M.C. 2833/2024, CRL.M.A. 10772/2024

JAI SINGH ALIAS RAJ & ANR.

..... Petitioners

Through: Mr. Faheem Alam, Advocate.

versus

THE STATE GOVT OF NCT OF DELHI & ANR. Respondents

Through: Ms. Kiran Bairwa, APP for State with
Inspector Ravinder Kumar Tomar,
SHO, P.S.: Tigri with SI Saurabh,
DPA Dwarka.Mr. Inamuddin, Advocate for R-2
with R-2 in-person.**CORAM:****HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA**

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J U D G M E N T**ANOOP KUMAR MENDIRATTA, J (ORAL)**

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioners for partly quashing of FIR No. 0176/2019, under Sections 307/34 IPC and Section 27 Arms Act, registered at P.S: Tigri. Chargesheet has been filed under Sections 307/201/34 IPC and Sections 27/54/59 Arms Act.

2. In brief, as per the case of prosecution, the present FIR was registered on the complaint of Rashid @ Tuttan, who alleged that on 28.06.2019 at about 10:40 pm, he was called outside his house by accused Jai Singh @ Raj, (petitioner no. 1), while other accused namely Kamal Kishor @ Rohit @ Honey Singh (petitioner no. 2) and Mohd. Imran @ Golu and Momin were



present outside the house. An altercation ensued and thereafter respondent No. 2 was assaulted by the accused. Further, one of the accused Imran fired two rounds with a pistol resulting in bullet injuries in the right leg of respondent no. 2. Accused fled from the spot and were subsequently arrested during the course of investigation.

3. Learned counsel for the petitioner Nos. 1 and 2 submits that the petitioners and respondent no. 2 reside in vicinity and the matter has been amicably settled. It is further pointed out that co-accused namely Imran @ Golu and Momin have not been impleaded as parties to present proceedings, since the matter has not been settled with them by respondent No. 2.

4. On the other hand, learned APP for the State vehemently opposes the petition since the offence falls under Section 307 IPC and co-accused Imran @ Golu was armed with illegal weapons, which was used for firing in the incident and resulted in gun-shot injuries to respondent No. 2.

5. It is well settled that powers under Section 482 Cr.P.C. for quashing of non-compoundable offences should not be exercised in cases involving heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc., as the same have serious impact on society and the Court should be slow in exercising the discretion under Section 482 Cr.P.C. in these proceedings.

6. The offence under Section 307 IPC is regarded as a heinous and serious offence as it is generally treated as crime against the society and not the individual alone. However, the Court is not required to rest its decision merely because Section 307 IPC is invoked in the FIR or charge but the Court may examine as to whether incorporation of Section 307 IPC is for the sake of it or if there is sufficient evidence to prove the same. The nature of



injuries sustained, the part of body on which the injury is inflicted, nature of weapon used etc. along with medical report as to the nature of injuries suffered by the victim are the guiding factors. No doubt, the Court is also to consider whether the possibility of conviction is remote and bleak and may also look into if the settlement is likely to result in harmony between the parties to improve their future relationship. The stage of quashing also remains relevant. Reliance in this regard may be placed upon ***Kapil Gupta v. State (NCT of Delhi) and Another, (2022) 15 SCC 44*** wherein the principles quoted in ***Narinder Singh v. State of Punjab, (2014) 6 SCC 466*** were referred for quashing of proceedings under Section 376 IPC.

7. It may also be noticed that apparent conflict in observations in ***Narinder Singh v. State of Punjab, (2014) 6 SCC 466*** and ***State of Rajasthan v. Shambhu Kewat and Another, (2014) 4 SCC 149*** was considered by the Hon'ble Apex Court in ***The State of Madhya Pradesh v. Laxmi Narayan and Others, Crl.A.349/2019***, decided on 05.03.2019 and principles for quashing stand reiterated in para 13 as under :

“13. 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:

i) 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;

ii) 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;

iii) similarly, such power is not to be exercised for the offences under the special statutes like 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;

iv) 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/delegate 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 paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

v) while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable 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.”

8. Returning back to the facts of the present case, it may be noticed that petitioners along with other co-accused reached the house of complainant / respondent No. 2 armed with illegal weapon, which was used by co-accused Imran @ Golu for firing two rounds and same resulted in bullet injuries in the right leg of the complainant. Merely because respondent No.2 and petitioners have arrived at a compromise, may not be a sufficient ground for quashing the proceedings.

It needs to be kept in perspective that criminal law is designed for achieving social control and regulate the conduct of the individuals within the society. The object also remains that serious offences should not be repeated by the offenders and the settlement does not further encourage the criminal acts or endangers the welfare of the society at large.

In the facts and circumstances, considering the nature and gravity of offence, this is not a fit case to invoke powers under Section 482 Cr.P.C. for quashing of proceedings, which may be used for serving the ends of justice or prevent the abuse of process of Court.

Petition is accordingly dismissed. Pending applications, if any, also stand disposed of.

ANOOP KUMAR MENDIRATTA, J.

APRIL 10, 2024/akc