



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on : 15.12.2023
Pronounced on : 15.03.2024

+ **W.P.(CRL) 2796/2023**

RAHUL AND ORS

..... Petitioners

Through: Mr. Ravindra Narayan and Mr.
Madhav Narayan, Advocates.

Versus

STATE OF NCT OF DELHI AND ORS

..... Respondents

Through: Mr. Sanjeev Bhandari, ASC for the
State with Mr. Kunal Mittal, Mr. Arjit
Sharma and Ms. Rishika, Advocates
with ASI Chander Lal, PS Paharganj.

CORAM:
HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

JUDGMENT

RAJNISH BHATNAGAR, J.

1. This is a petition filed by the petitioners under Article 226 of the Constitution of India read with Section 482 Cr.P.C. seeking directions to police to stop investigation and for quashing of FIR No. 288/2023 under Sections 307/324/34 I.P.C. registered at Police Station Paharganj.
2. In brief the facts of the case are that on 30.04.2023, the complainant, namely, Karan was attending a marriage ceremony in his neighbourhood where all the people were dancing and singing. At around 11:00 P.M., accused/ Petitioner No. 1, namely, Rahul was passing through the street where the marriage ceremony was taking place when someone's foot while



dancing touched him. Accused Rahul started hurling abuses then and there, to which the complainant tried to explain to him but he got angry and called his associates, namely, Kapil (Petitioner No. 2) and Chirag @ Chintu (Petitioner No. 3) through his phone. Petitioner No.1/Rahul while abusing attacked the complainant with a *danda* and Petitioner No. 2/Kapil took out a knife and attacked the complainant hitting him on the back side of his head. Petitioner No. 3/Chirag @ Chintu kicked the complainant and when accused Kapil again tried to inflict injury upon the complainant, Vijay/injured who was standing nearby tried to take the knife from accused-Kapil. In the process, Vijay's hand also got injured and on seeing that the injured is bleeding, all three accused ran away from the spot. On the complaint of respondent No.2, the case vide FIR No. 288/2023 under Sections 307/324/34 IPC was got registered at Police Station Paharganj.

3. Subsequently, since the petitioners and respondent no. 2 and 3 are the residents of the same locality and are well-known to each other, with the intervention of the family members, respectable members of the locality and people of Panchayat, they have amicably compromised the matter vide their affidavits dated 06.05.2023.

4. Learned Counsel for the petitioners submitted that the petitioners and respondent no. 2 and 3 are the residents of the same locality and are well-known to each other and thus, with the intervention of the family members, respectable members of the locality and people of Panchayat, they have amicably compromised the matter vide their affidavits dated 06.05.2023. He further submitted that considering the said affidavits, the petitioner Nos. 1 and 2 were granted bail by this Hon'ble court vide orders dated 11.05.2023



and petitioner No.3 was granted bail vide order dated 12.05.2023. He further submitted that the compromise so arrived at between the parties is voluntary in nature without any force, fraud, coercion or misrepresentation from any side and the respondent Nos. 2 and 3 in their said affidavits have also assured the same. He further submitted that no useful purpose shall be served by keeping the matter pending, the trial would be nothing but a mere exercise in futility and therefore, prays that the FIR No. 288/2023 be quashed.

5. On the other hand, Ld. ASC for the State has vehemently opposed the present petition and has argued on the lines of the status report. He submitted that there are serious allegations against the petitioners of hitting the complainant with a *danda*, attacking the complainant with a knife, kicking him and also, injuring the hand of Vijay/Injured with a knife. He further submitted that during the course of investigation, the statement of the complainant's friend has been recorded who has supported the case of the prosecution. He further submitted that the petitioners have inflicted repeated injuries on the injured persons using a knife and as per the MLC, the injuries are simple in nature. Lastly, Ld. ASC for the State while strongly opposing the present petition has submitted that the crime committed by the petitioners is serious and grave in nature in view of the repeated injuries inflicted by them on the injured persons.

6. In *State of Rajasthan vs. Shambhu Kewat [(2014) 4 SCC 149]*, the Hon'ble Supreme Court has observed and held as follows:

“15. We are not prepared to say that the crime alleged to have been committed by the accused persons was a crime against an individual,



on the other hand it was a crime against the society at large. Criminal law is designed as a mechanism for achieving social control and its purpose is the regulation of conduct and activities within the society. Why Section 307 IPC is held to be noncompoundable, is because the Code has identified which conduct should be brought within the ambit of non-compoundable offences. Such provisions are not meant just to protect the individual but the society as a whole. The High Court was not right in thinking that it was only an injury to the person and since the accused persons had received the monetary compensation and settled the matter, the crime as against them was wiped off. Criminal justice system has a larger objective to achieve, that is, safety and protection of the people at large and it would be a lesson not only to the offender, but to the individuals at large so that such crimes would not be committed by anyone and money would not be a substitute for the crime committed against the society. Taking a lenient view on a serious offence like the present, will leave a wrong impression about the criminal justice system and will encourage further criminal acts, which will endanger the peaceful coexistence and welfare of the society at large.”

7. In ***State of Madhya Pradesh vs. Kalyan Singh & Ors. (Crl. Appeal No.14/2019 dated 04.01.2019)***, the Hon’ble Supreme Court has categorically held as follows:

*“... Be that as it may, the fact remains that the accused was facing the criminal proceedings for the offences under Sections 307, 294 read with Section 34 of the IPC and that the offences under these sections are not non-compoundable offences and, looking to the serious allegations against the accused, we are of the opinion that the High Court has committed a grave error in quashing the criminal proceedings for the offences under Sections 307, 294 read with Section 34 of the IPC solely on the ground that the original Complainant and the accused have settled the dispute. At this stage, the decision of this Court in the case of **Gulab Das and Ors. V. State of M.P.** (2011) 12 SCALE 625 is required to be referred to. In the said decision, this Court has specifically observed and held that, despite any settlement between the Complainant on the one hand and*



the accused on the other, the criminal proceedings for the offences under Section 307 of the IPC cannot be quashed, as the offence under Section 307 is a non-compoundable offence. Under the circumstances, the impugned judgment and order passed by the High Court quashing the criminal proceedings against the original Accused for the offences under Sections 307, 294 read with Section 34 of the IPC cannot be sustained and the same deserves to be quashed and set aside.”

8. The Hon’ble Supreme Court in ***Narinder Singh vs. State of Punjab***, [(2014) 6 SCC 466], after taking into consideration the judgment in ***State of Rajasthan vs. Shambhu Kewat*** (*supra*) quashed the proceedings under Section 307 IPC. However, in view of the conflict between the two decisions in the cases of ***Narinder Singh vs. State of Punjab*** (*supra*) and ***State of Rajasthan vs. Shambhu Kewat*** (*supra*), the matter was referred to a larger Bench of the Hon’ble Supreme Court in ***State of M.P. vs. Laxmi Narayan*** [(2019) 5 SCC 688], wherein it was observed and held as under:

“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.”

9. In ***Mukhtiyaar Ali & Ors. vs. The State NCT Delhi & Ors. (Crl. M.C 2021/2021)***, the co-ordinate bench of this Court has observed and held as follows:

“12. Considering the parameters laid down by the larger Bench of the Supreme Court, the High Court while exercising its jurisdiction under Section 482 Cr.P.C has held that an offence under Section 307 IPC will fall under the category of heinous offence, and therefore, has to be treated as a crime against the society and not against the individual alone and the proceedings under Section 307 IPC cannot be quashed only on the ground that the parties have resolved the entire disputes amongst themselves.”

10. In the instant case, there are specific allegations against the petitioners of hitting the complainant with a *danda*, attacking him with a knife which hit the complainant's head, kicking him and also, injuring the hand of Vijay/Injured with a knife. The allegations against the petitioners are serious in nature as they have inflicted repeated injuries on the injured persons using a knife.

11. The petitioners have attacked the injured persons while they were attending a marriage ceremony, moreover, it is clear from the facts of the case that there was no provocation whatsoever by the injured persons and the petitioners without any rhyme or reason attacked them with a *danda* and also, inflicted injuries with a knife on complainant's head and on hand of the



other injured. Perusal of the records of the case shows that Section 307 IPC was not added merely for the sake of it but keeping in view the seriousness and gravity of the offence committed by the petitioners.

12. Therefore, taking into consideration the facts and circumstances of this case and also, applying the principles laid down in the aforementioned judgments, this Court is of the view that the FIR No. 288/2023 under Sections 307/324/34 I.P.C registered at Police Station Paharganj cannot be quashed solely on the ground that the parties have compromised the matter.

13. Accordingly, the petition is dismissed along with pending applications, if any.

RAJNISH BHATNAGAR, J

MARCH 15, 2024

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