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

CRA-S-3108-SB-2017
Date of decision: 21.04.2025

Sunder and others

....Appellants

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Aman Pal, Advocate
for the appellants.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Rishabh Chaudhary, Advocate
for the complainant.

HARPREET SINGH BRAR, J. (ORAL)

1. The present appeal has been filed for setting aside the impugned judgment of conviction and order of sentence dated 08.08.2017 passed by the learned Additional Sessions Judge, Kurukshetra.

2. Brief facts of the case are that on 04.12.2015, the complainant was occupied with overseeing arrangements in a tent that had been set up at his residence on the occasion of his cousin sisters' marriage. On that day, Sunder and Sikander, residents of Kaithal, also attended the function as part of *barat*. Both individuals were armed with revolvers. They entered the tent carrying liquor with them and fired openly. Additionally, they were accompanied by four other individuals. When the complainant objected to their actions, specifically to their drinking and firing inside the tent, they started assaulting him and fired shots towards him. At that time, when their cartridges were finished, Sunder caught hold of him and Sikander hit him on his left hand and also extended threats to kill him and his family members before fleeing from



the spot. He further stated that the accused along with other individuals, are now roaming in the village and continuing to issue threats to him and his family and thus, the instant case.

3. Learned counsel for the appellants contends that there is an inordinate delay of 11 days in lodging the FIR in question. He further contends that the injury is of non-grievous nature as it is posted on a non-vital part of the body. Additionally, the complainant has no objection in regard to quashing of FIR in question as mentioned in the compromise deed and statements in terms of order dated 17.03.2025 have also been recorded by the learned trial Court.

4. *Per contra*, learned State Counsel objects to quashing of the FIR in question based on compromise, as there was an intention to kill the complainant using arms and it falls in the ambit of Section 307 of IPC which is not compoundable in nature.

5. I have heard learned counsel for the parties and perused the record of the case with their able assistance.

6. This Court finds force in the arguments advanced by learned counsel for the appellants that *prima facie* no offence under Section 307 of IPC is made out as the complainant, namely, Dharambir, has sustained a fracture to the third metacarpal bone in his left hand which at most constitutes an offence under Section 325 of IPC. Further, the FIR (*supra*) was registered in the year 2015 and ten years have passed. It is pertinent to note that both the accused and the complainant as well as the injured party, are family members. The alleged incident occurred during a marriage function and as a result, a compromise has been effected between the parties. Once it is established that no offence under Section 307 of the IPC i.e. attempt to murder, is *prima facie* made out, there is

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no legal impediment in quashing the FIR on the grounds of compromise. The injuries sustained as proved by PW-18 on the basis of X-ray report only substantiate a case under Section 325 of IPC. In view of the categorical medical evidence, conviction under Section 307 of IPC would not sustain. The appellants are liable for causing grievous hurt invoking Section 325 of IPC.

7. As per observations made by the Hon'ble Supreme Court in ***State of Madhya Pradesh Vs. Laxmi Narayan and others, (2019) 5 SCC 688***, it would be open for this Court to examine whether incorporation of Section 307 of IPC is there for the sake of it or whether factual ingredients breaching the threshold of Section 307 of IPC are prima facie available or not. This Court is required to examine the nature and extent of injuries, seat of injuries and nature of weapon used in inflicting the injuries. In this regard, the Hon'ble Supreme Court in ***Naushey Ali v. State of Uttar Pradesh, passed in CRA- 660-2025, decided on 11.02.2025***, speaking through Justice K.V. Viswanathan, has observed as under:

“Coming back to Laxmi Narayan (supra), this Court has held that mere mention of Section 307 IPC in the FIR or the charge-sheet should not be the basis for adopting a hands-off approach. It has further held that it would be open for the court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or whether there is evidence to back it. It has been held that the courts may go by the nature of injuries sustained; as to whether the injuries are inflicted on the vital/ delicate parts of the body and the nature of weapon used. It has also been clarified that such an exercise would be permissible after investigation and filing of chargesheet/framing of charges or during the trial.”

8. On 17.03.2025, the following order was passed:-



“Mr. Rishab Chaudhary, Advocate puts in appearance on behalf of the complainant and files his vakalatnama in the Court today which is taken on record.

Learned counsel for the appellants inter alia contends that the FIR in question was registered under Section 307 of IPC. Prima facie, no offence under Section 307 of IPC is made out and the complainant, namely, Dharambir, has suffered a fracture of third metacarpal bone in left hand which at the most invokes the offence under Section 325 of IPC. Further, the FIR (supra) was registered in the year 2015 and ten years have passed. The accused and the complainant and injured are family members. Moreover, the alleged incident had taken place during a marriage function, as such, a compromise has been effected between the parties. Once, it is duly established that no offence under Section 307 of IPC prima facie is made out, there is no embargo in quashing of the FIR in question on the basis of compromise. The injuries as proved by PW-18 on the basis of x-ray report only makes out a case under Section 325 of IPC. In view of the categoric medical evidence, there is no embargo in quashing of the FIR in question along with the impugned judgment of conviction dated 08.08.2017.

He further placed reliance upon the judgment of the Hon'ble Supreme Court passed in 'Ramgopal and another Vs. State of Madhya Pradesh' 2021 SCC OnLine SC 834. The parties are directed to appear before the learned trial Court/Illaq Magistrate within two weeks from today or any other date convenient to the trial Court/Illaq Magistrate, to get their statements recorded regarding compromise and after recording their statements, learned trial Court/Illaq Magistrate is directed to send report regarding the genuineness of compromise and also to intimate whether any PO proceedings are pending against any of the party on or before the date fixed.

Adjourned to 21.04.2025.

A copy of the order be sent to learned trial Court/Illaq Magistrate through fax for compliance.

The learned State counsel is also directed to verify the antecedents of the appellants.”

9. In compliance of the aforesaid order, a report has been received

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from the concerned jurisdictional Court that the compromise between the parties is genuine and arrived at without any pressure or coercion from anyone.

10. In view of the discussion above, the present appeal is allowed and the impugned judgment of conviction and order of sentence dated 08.08.2017 passed by the learned Additional Sessions Judge, Kurukshetra, are hereby set aside. The appellants are acquitted of the charges framed against them. Their bail/surety bonds stand discharged.

11. The Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

21.04.2025*Neha*

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