



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

CRM-M-36359-2021 (O&M)

Date of Decision: 13.02.2025

KEHAR SINGH AND OTHERS

...Petitioners

V/S

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Anu Pal and Mr. Aman Pal, Advocates
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG Haryana.

Mr. Rajender Kumar, Advocate and
Mr. Rishabh Chaudhary, Advocate for respondents No. 2 and 3.

HARPREET SINGH BRAR J. (Oral)

1. The petitioners have approached this Court seeking quashing of FIR No.353 dated 17.06.2021 registered at Police Station Shahabad, District Kurukshetra, under Sections 120-B, 307, 323, 34, 506 IPC (Annexure P-1) and all consequential proceedings emanating therefrom on the basis of a compromise having been effected between the parties.

2. The following order was passed on 16.09.2021:

"The petitioners have approached this Court seeking quashing of FIR No.353 dated 17.06.2021 registered at Police Station Shahabad, District Kurukshetra, under Sections 120-B, 307, 323, 34, 506 IPC (Annexure P-1) and all consequential proceedings emanating therefrom on the basis of a compromise having been effected between the parties.

Learned counsel for the petitioners has submitted that it is a case where there was some dispute amongst cousin brothers regarding the boundary of land, which led to causing of injuries to Gurmail Singh (uncle of the complainant Rinku) by the accused with the help of a sickle, as has been alleged in the FIR.

Learned counsel while describing the relationship of the petitioners with the complainant Rinku has submitted that



Rinku is nephew of injured Gurmail Singh and that while petitioner No.1 – Kehar Singh is paternal uncle of injured Gurmail Singh, petitioners No.2 & 3, namely, Rajbir & Ram Kumar are sons of Kehar Singh and are, thus, cousins of injured Gurmail Singh.

Learned counsel has submitted that although one of the offences in the FIR is under Section 307 IPC, which as per the scheme of the Code is a non-compoundable offence, but Hon'ble Supreme Court in its latest judgment reported as State of Madhya Pradesh Vs. Laxmi Narayan & others, (2019) 5 SCC 688 has reiterated the proposition of law, as laid in the earlier judgments reported as Narinder Singh & others Vs. State of Punjab & another, (2014) 6 SCC 466 and Gian Singh Vs. State of Punjab & another, (2012) 10 SCC 303.

Learned counsel has further submitted that while no absolute law has been laid down by the Hon'ble Supreme Court in the aforesaid judgments that in every case where offence under Section 307 IPC is involved, the FIR can be quashed, but has carved out certain exceptions where such FIRs may be quashed, particularly where the Court is of the opinion that continuation of proceedings would be an exercise in futility or is an abuse of process of law. Learned counsel has drawn the attention of this Court to paras 31(VI) & 31(VII) of Narinder Singh's case (supra), which read as follows:

“31. xx xx xx

(VI) 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 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/delegate 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.

(VII) 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 chargesheet 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.”

Learned counsel has further submitted that the powers of the High Court under Section 482 Cr.P.C. are more or less unfettered and can be invoked for the purpose of imparting justice and that the same are distinct from the powers under Section 320 Cr.P.C. Learned counsel in this regard has referred to paras 53 & 54 of Gian Singh’s case (supra), which read as follows:

“53. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

54. Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public

and consist in wrong doing that seriously endangers and threatens wellbeing of society and it is not safe to leave the crime- doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed.”

It has further been submitted that since the occurrence in question has mainly arisen out of a dispute regarding the demarcation of land amongst the cousins and cannot be said to have any social impact and since the petitioners are otherwise not criminals and are first time offenders, the extra ordinary powers under Section 482 Cr.P.C. can be exercised for the purpose of quashing the FIR, as the

same would in fact facilitate maintenance of peace and harmony amongst cousins, who are residing in the same village and have adjacent fields.

Notice of motion for 15.02.2022.

At this stage, Ms. Sheenu Sura, DAG, Haryana, accepts notice on behalf of respondent No.1-State, while Mr. Rajender Helwa, Advocate, has put in appearance on behalf of respondents No.2 & 3 and filed his vakalatnama.

The parties are directed to get their statements recorded qua the factum of compromise in the following manner: (i) The petitioners shall move an application before the trial Court/Ilaqa Magistrate concerned for recording statement of the petitioner as well as of the complainant qua the factum of compromise. As and when any such application is moved and put up before the trial Court/Ilaqa Magistrate, the trial Court/Ilaqa Magistrate shall consider the said application and do the needful for recording the statements of the parties qua the factum of the compromise. It shall be open to the trial Court/Ilaqa Magistrate to either record the statement of the parties by physical process, if found convenient and safe subject to adherence of all the safeguards as prescribed by the health authorities or record the same by video conferencing.

(ii) In case the statement is to be recorded by way of video conferencing, the parties concerned shall be duly identified through video conferencing by their respective counsel, subject to the satisfaction of the Presiding Officer.

After recording the statements of all the affected parties in either of the aforesaid manner, the trial Court/Ilaqa Magistrate shall submit its report on the basis of the statements so recorded as to whether all the affected parties have entered into a compromise and as to whether the compromise in question is found to be a valid compromise and has been effected without there being any kind of influence or coercion.

The trial Court/Ilaqa Magistrate shall also report as regards the following facts after seeking information from Investigating Officer, concerned:



(i) Whether there is any other accused other than the petitioners, arrayed in this petition.

(ii) Whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition.

(iii) Whether any accused has been declared Proclaimed Offender?

The report be submitted before this Court on or before the next date of hearing.”

3. In compliance of the aforesaid order, a report has been received from the concerned jurisdictional Court that the compromise between the parties is genuine and arrived at without any pressure or coercion from anyone.

4. Learned counsel for the petitioners submit that the weapon used in the alleged incident is sickle, commonly used for the agricultural purpose and the nature and extent of the injuries clearly indicate that *prima facie* offence under Section 307 of Indian Penal Code is not made out. Further, the parties to the dispute are cousins, entangled in a purely private dispute, which cannot in any manner have any social impact. Lastly, the petitioners are first time offenders and accordingly, have clean antecedents.

5. In view of submissions made by learned counsel for the petitioner and the compromise and the ratio of law laid down by the Hon'ble Supreme Court in **Narinder Singh and others vs. State of Punjab and another, (2014) 6 SCC 466** and **Shakuntala Sawhney (Mrs) Vs. Kaushalya (Mrs.) and others (1980) 1 SCC 63** and Full Bench of this Court in **Kulwinder Singh Vs. State of Punjab 2007 (3) RCR (Crl.)**

1052, this petition is allowed and FIR No.353 dated 17.06.2021 registered



at Police Station Shahabad, District Kurukshetra, under Sections 120-B, 307, 323, 34, 506 IPC (Annexure P-1) along with all subsequent proceedings arising therefrom are quashed, qua the petitioners.

13.02.2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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