



CRM-M-59218-2024

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

CRM-M-59218-2024
Decided on : 19.02.2025

Kewal Singh and another

..... Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Pardeep Kumar Kapila, Advocate, for the petitioners.
 Mr. Taun Aggarwal, Sr.DAG, Punjab.
 Mr. Amit Kumar, Advocate, for respondent No.2.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for quashing of the FIR No.23 dated 10.02.2023 registered under Section 306 IPC, at Police Station Ajnala, District Amritsar and all the consequent proceedings arising therefrom on the basis of the compromise (Annexure P-2).

2. Succinctly, facts of the case are that respondent No.2-complainant has lodged the impugned FIR. Primarily the allegations made by respondent No.2 are to the effect that she is the wife of deceased, namely Jatinder Singh, who had purchased a plot measuring 5 Marlas in village Chamiyari. In the year 2020, when her husband Jatinder Singh started construction work of boundary wall, then he was restrained by Rajwinder Kaur (petitioner No.2) and her father-in-law Kewal Singh (petitioner No.1). Her husband tried to resolve the dispute, but both the petitioners did not allow the construction to be raised by her husband. He was abused by both of them and they misbehaved with him to the extent that he consumed poison on being harassed by both of them and co-accused Harjit Singh and



thus, committed suicide. On the registration of the FIR, the investigation commenced. During the trial before the trial Court, the parties have entered into a compromise and on the basis of which the present petition has been filed for quashing of the FIR.

3. It has been submitted by learned counsel for the petitioners that the complainant is the wife of the deceased who has no grievance against the petitioners as compromise has already been arrived between them. He submits that though offence under Section 306 IPC is not compoundable under Section 320 Cr.P.C., however, this Court has ample power under Section 482 Cr.P.C. for quashing this FIR on the basis of the compromise arrived at between the parties. He has relied upon the judgment of Hon'ble Supreme Court in **Kulwinder Singh and others vs. State of Punjab, 2007(2) RCR (Cr1.) 1052**. He has submitted that when the petitioners have entered into a compromise with respondent No.2-complainant, proceedings in the FIR are nothing but an abuse of the process of the Court and thus, in the interest of justice, the impugned FIR deserves to be quashed.

4. Learned counsel for respondent No.2 has endorsed the submissions made by counsel for the petitioners that both the sides have entered into compromise.

5. However, learned State counsel has opposed the submissions made by counsel for the petitioners. He has submitted that there are specific allegations against the petitioners and the co-accused who is neither party to the compromise nor party in the present petition. He submits that as per law settled, offence under Section 306 IPC falls under the heinous offence and as per law settled by Hon'ble Supreme Court in **Gian Singh vs. State of**



Punjab and another, 2012 (10) SCC 303 and **Daxaben vs. State of Gujarat and others, 2022 AIR (Supreme Court) 3530**, offence under Section 306 IPC cannot be compounded. Hence, the present petition being devoid of any merit deserves to be dismissed.

6. The Court has heard counsel for the parties and perused the record with their able assistance. The issue involved in the present case is that, can this Court under its power of inherent jurisdiction as enumerated under Section 482 Cr.P.C. quash the proceedings under Section 306 IPC on the basis of compromise arrived at between the accused and the complainant? Evidently the complainant for the offence under Section 306 IPC has to be relative of the deceased. In the case in hand, the complainant is the wife of the deceased. Hence, the compromise which has been relied upon by the petitioners, is between the accused and relative of the deceased. The role of every complainant is to put the legal machinery into motion. There is no gainsaying that as per statutory provisions of Section 320 Cr.P.C., there are certain offences, which are compoundable with the permission or without the permission of the Court. However, the inherent power of this Court empowers it to quash the proceedings in certain offences, even if the offence under consideration is non-compoundable in nature. However, in view of the law settled, this Court is to be circumspect while exercising its powers under Section 482 Cr.P.C. for quashing the FIR. Hon'ble Supreme Court in **Gian Singh's** case (supra) has dealt with regard to the powers to be exercised by the High Court exhaustively. Thereafter, in **Narinder Singh vs. State of Punjab, 2014 (6) SCC 466**, Hon'ble Supreme Court has held as under:-



“31. 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:

(I) 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.

(II) When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in 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.

(III) 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 offences alleged to have been committed under special statute like the Prevention of Corruption Act 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) On the other, those criminal cases having overwhelmingly and pre-dominantly 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.

(V) 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.

(VI) Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore is 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 later 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 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 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.”

7. The offence in the present case, for which the FIR has been sought to be quashed on the basis of compromise, is offence under Section 306 IPC. Hon’ble Supreme Court in **Daxaben’s** case (supra) has held as under:-

“25. The only question in this appeal is whether the Criminal Miscellaneous Applications filed by the accused under Section 482 of the Cr.P.C. could have been allowed and an FIR under Section 306 of the IPC for abetment to commit suicide, entailing punishment of imprisonment of ten years, could have been quashed on the basis of a settlement between the complainant and the accused named in the FIR. The answer to the aforesaid question cannot, but be in the negative.

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37. Offence under Section 306 of the IPC of abetment to commit suicide is a grave, non-compoundable offence. Of course, the inherent power of the High Court under Section 482 of the Cr.P.C. is wide and can even be exercised to quash criminal proceedings relating to non-compoundable offences, to secure the ends of justice or to prevent abuse of the process of Court. Where the victim and offender have compromised disputes essentially civil and personal in nature, the High Court can exercise its power under Section 482 of the CrPC to quash the criminal proceedings. In what cases power to quash an FIR or a criminal complaint or criminal proceedings upon compromise can be exercised, would depend on the facts and circumstances of the case.

38. However, before exercising its power under Section 482 of the Cr.P.C. to quash an FIR, criminal complaint and/or criminal



proceedings, the High Court, as observed above, has to be circumspect and have due regard to the nature and gravity of the offence. Heinous or serious crimes, which are not private in nature and have a serious impact on society cannot be quashed on the basis of a compromise between the offender and the complainant and/or the victim. Crimes like murder, rape, burglary, dacoity and even abetment to commit suicide are neither private nor civil in nature. Such crimes are against the society. In no circumstances can prosecution be quashed on compromise, when the offence is serious and grave and falls within the ambit of crime against society.

39. Orders quashing FIRs and/or complaints relating to grave and serious offences only on basis of an agreement with the complainant, would set a dangerous precedent, where complaints would be lodged for oblique reasons, with a view to extract money from the accused. Furthermore, financially strong offenders would go scot free, even in cases of grave and serious offences such as murder, rape, bride- burning, etc. by buying off informants/complainants and settling with them. This would render otiose provisions such as Section 306, 498-A, 304-B etc. incorporated in the IPC as a deterrent, with a specific social purpose.

40. In Criminal Jurisprudence, the position of the complainant is only that of the informant. Once an FIR and/or criminal complaint is lodged and a criminal case is started by the State, it becomes a matter between the State and the accused. The State has a duty to ensure that law and order is maintained in society. It is for the state to prosecute offenders. In case of grave and serious non- compoundable offences which impact society, the informant and/or complainant only has the right of hearing, to the extent of ensuring that justice is done by conviction and punishment of the offender. An informant has no right in law to withdraw the complaint of a non-compoundable offence of a grave, serious and/or heinous nature, which impacts society.

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50. In our considered opinion, the Criminal Proceeding cannot be nipped in the bud by exercise of jurisdiction under Section 482 of the Cr. P.C. only because there is a settlement, in this case a monetary settlement, between the accused and the complainant and other relatives of the deceased to the exclusion of the hapless widow of the deceased. As held by the three-Judge Bench of this Court in Laxmi Narayan & Ors. (supra), Section 307 of the IPC falls in the category of heinous and serious offences and are to be treated as crime against society and not against the



individual alone. On a parity of reasoning, offence under Section 306 of the IPC would fall in the same category. An FIR under Section 306 of the IPC cannot even be quashed on the basis of any financial settlement with the informant, surviving spouse, parents, children, guardians, care-givers or anyone else. It is clarified that it was not necessary for this Court to examine the question whether the FIR in this case discloses any offence under Section 306 of the IPC, since the High Court, in exercise of its power under Section 482 CrPC, quashed the proceedings on the sole ground that the disputes between the accused and the informant had been compromised.”

8. On reading the findings arrived by the Hon’ble Supreme Court, it is deciphered that quashing FIRs and/or complaints relating to grave and serious offences only on basis of an agreement with the complainant, would be violative of the law settled. It has been further observed that this would render otiose the provisions such as Sections 306, 498- A, 304-B etc. incorporated in the IPC. Hon’ble Supreme Court has observed that FIR under Section 306 cannot be quashed on the basis of any financial settlement with the informant, surviving spouse, parents, children, guardians, care-givers or anyone else. Hon’ble Supreme Court, thus, has totally ruled out the quashing of the FIR for the offence under Section 306 IPC on the basis of the compromise. The offence under Section 306 IPC has been held not to be offence in private nature, but against the society as a whole. Accepting the compromise in such like cases would have serious ramifications in the society.

9. Though learned counsel for the petitioners has submitted that the law settled by Hon’ble Supreme Court in **Daxaben’s** case (supra) is distinguishable on the facts and circumstances of the present case as the offence under Section 306 IPC is not made out in the present case, however,

the argument raised is misconceived, as the petition is filed on the basis of compromise and not on the basis of merits.

10. Hence, the law cited by learned counsel for the petitioners cannot be relied upon by this Court, as Hon’ble Supreme Court has settled the issue in hand in **Daxaben’s** case (supra). Thus, this Court does not find any merit in the present petition and hence, the same is hereby dismissed.

11. Nothing said herein shall be construed as an expression of opinion on the merits of the case. It has further been clarified that the petitioners would be at liberty to avail their remedy for quashing of the FIR, in case so advised, on the basis of merits of the case.

19.02.2025

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No