

(2022) 03 P&H CK 0097

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 20562 Of 2021

Harpreet Singh @ Ajay And Others

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 29-03-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 173, 482

Indian Penal Code, 1860 — Section 34, 147, 148, 149, 307, 320, 323, 324, 326, 452, 482, 506

Citation : (2022) 03 P&H CK 0097

Hon'ble Judges : Anoop Chitkara, J

Bench : Single Bench

Advocate : Ramnish Puri, Harsimar Singh Sitta, Amit Khari

Final Decision : Dismissed

Judgement

Anoop Chitkara, J

FIR No.

Dated

Police Station

Sections

219

15.07.2020

Jandiala, District Amritsar

307, 336, 365, 452, 506, 148, 149 IPC and 25 of Arms Act (364, 365 IPC added later on)

1. The petitioner(s), arraigned as accused in the above captioned FIR, has come up before this Court under Section 482 CrPC for quashing of the FIR and all

consequential proceedings based on the compromise with the victim(s).

2. During the pendency of the petition, the accused and the injured have compromised the matter, and affidavit of Gurwinder Singh is annexed with the petition as Annexure P-2.

3. After that, the petitioner(s) came up before this Court to quash the FIR, and in the quashing petition, the injured have been impleaded as respondent(s).

4. On 15-3-2022, the victims Gurwinder Singh (R-2) and Balwinder Singh (R-3) stated before the JMIC Amritsar that there would be no objection if the court quashes this FIR and consequent proceedings. As per the concerned court's report dated 21-3-2022, the parties consented to the quashing of FIR and consequent proceedings without any threat.

ANALYSIS & REASONING:

5. The State's counsel has severely opposed this compromise and seeks dismissal of the petition because of the heinous nature of the offence.

6. It shall be appropriate to refer to the relevant portions of affidavit of Gurwinder Singh, annexed with the petition as Annexure P-2, which reads as follows:

"[2]. That now with the intervention of the respectable persons and relatives, the matter has been compromised between me and above mentioned Harpreet Singh @ Ajay, Sajan Singh and Gobinda only and we have decided to burry all the disputes.

[3]. That I accepted the factum of compromise and do not want to proceed with the above mentioned FIR against Harpreet Singh @ Ajay, Sajan Singh and Gobinda. Furthermore, I have no objection in case the Hon'ble High Court at Chandigarh quashes the above said FIR against the above named persons."

7. The injured appeared before the Court of JMIC Amritsar, and on 15-3-2022, made statement on oath, relevant of which reads as follows:

"The compromise is genuine, voluntary, without any fear, pressure, threat or coercion and same is out of our free will and now we want to live in brotherhood, peace and harmony in future as we are residents of Jandiala. Now, we have no objection if the FIR and all consequent proceedings may be quashed against accused mentioned above."

8. A perusal of the contents of the affidavit and victims' statements about compromise state that they entered into a compromise to live in brotherhood, peace, and harmony as they are residents of Jandiala. However, without the background of friendship, the closeness of family, strong bonds, or being in relations, this explanation is meaningless to permit compounding of a heinous offence punishable under section 307 IPC, where the sentence can run to imprisonment for life.

JUDICIAL PRECEDENTS ON QUASHING UNDER SECTION 307 IPC:

9. In *Ram Prasad v State of Uttar Pradesh*, (1982) 2 SCC 149, Supreme Court holds,

The appellants, who are the accused and the complainant, Shri Ram, who was the person injured as a result of firing, have appeared before us and stated that they wish to compound the offence. The offence for which both the appellants have been convicted is one under Section 307 read with Section 34 of the Indian Penal Code, but having regard to the nature of the injury sustained by Shri Ram, we think that the proper offence for which the appellants should have been convicted was under Section 324 read with Section 34. Shri Ram received only one injury on the shoulder and that was also in the nature of simple hurt. We would, therefore, convert the conviction of the appellants to one under Section 324 read with Section 34. Since the parties belong to the same village and desire to compound the offence, we think, in the larger interest of peace and harmony between the parties and having regard to the nature of the injury, that it would be proper to allow the parties to compound the offence.

10. In *Mahesh Chand v State of Rajasthan*, 1990 SCC 781, Hon'ble Supreme Court holds as under:

[2]. The accused were acquitted by the trial court, but they were convicted by the High Court for the offence under section 307 Indian Penal Code. This offence is not compoundable under law. The parties, however, want to treat it a special case, in view of the peculiar circumstances of the case. It is said and indeed not disputed that one of the accused is a lawyer practising in the lower court. There was a counter case arising out of the same transaction. It is said that this case has already been compromised. The decision of this Court in *Suresh Babu v. State of Andhra Pradesh*, 1987(2) JT 361, has been also referred to in support of the plea for permission to compound the offence.

11. In *DimpeyGujraj v Union Territory*, (2013) 11 SCC 497, Supreme Court holds,

[5]. In light of the above observations of this court in *Gian Singh v. State of Punjab* and another, 2012(4) R.C.R.(Criminal) 543 : 2012(4) Recent Apex Judgments (R.A.J.) 549 : 2012(5) CTC 526 (SC) we feel that this is a case where the continuation of criminal proceedings would tantamount to abuse of process of law because the alleged offences are not heinous offences showing extreme depravity nor are they against the society. They are offences of a personal nature and burying them would bring about peace and amity between the two sides. In the circumstances of the case, FIR No. 163 dated 26/10/2006 registered under Section 147, 148, 149, 323, 307, 452 and 506 of the Indian Penal Code at Police Station Sector 3, Chandigarh and all consequential proceedings arising therefrom including the final report presented under Section 173 of the Code and charges framed by the trial court are hereby quashed.

12. In *State of Rajasthan v. Shambhu Kewat*, (2014) 4 SCC 149, Hon'ble

Supreme Court holds,

[14] We notice that the gravity of the injuries was taken note of by the Sessions Court and it had awarded the sentence of 10 years rigorous imprisonment for the offence punishable under Section 307 IPC, but not by the High Court. The High Court has completely overlooked the various principles laid down by this Court in *Gian Singh*, and has committed a mistake in taking the view that, the injuries were caused on the body of Abdul Rashid in a fight occurred at the spur and the heat of the moment. It has been categorically held by this Court in *Gian Singh* that the Court, while exercising the power under Section 482, must have "due regard to the nature and gravity of the crime" and "the societal impact". Both these aspects were completely overlooked by the High Court. The High Court in a cursory manner, without application of mind, blindly accepted the statement of the parties that they had settled their disputes and differences and took the view that it was a crime against "an individual", rather than against "the society at large".

[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 non-compoundable, 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. 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 any one 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 co-existence and welfare of the society at large.

[16] We are, therefore, inclined to allow this appeal and set aside the judgment of the High Court. The High Court was carried away by the settlement and has not examined the matter on merits, hence, we are inclined to direct the High Court to take back the appeal to its file and decide the appeal on merits.

13. In *Yogendra Yadav v State of Jharkhand*, 21.7.2014, Supreme Court holds,

[4]. Now, the question before this Court is whether this Court can compound the offences under Sections 326 and 307 of the IPC which are non-compoundable. Needless to say that offences which are non-compoundable cannot be

compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (*Gian Singh v. State of Punjab*, 2012(4) R.C.R.(Criminal) 543 : 2012(4) Recent Apex Judgments (R.A.J.) 549 : (2012)10 SCC 303). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquillity and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.

14. In *State of Madhya Pradesh v. Dhruv Gurjar*, (2019) 5 SCC 570, the FIR was registered under S 307, 294 and 34 IPC based on the allegations that Dhruv Gurjar (accused) armed with a 12-bore gun, and his gang, visited the house of the complainant with a view to take revenge with his nephew. When the complainant told them that his nephew was not present at home, on this Dhruv Gurjar fired, and the pellets struck on his forehead, left shoulder and left ear. Disagreeing with the order of High Court quashing the FIR, Hon'ble Supreme Court held,

[16.1] However, the High Court has not at all considered the fact that the offences alleged were non-compoundable offences as per Section 320 of the Cr.P.C. From the impugned judgments and orders, it appears that the High Court has not at all considered the relevant facts and circumstances of the case, more particularly the seriousness of the offences and its social impact. From the impugned judgments and orders passed by the High Court, it appears that the High Court has mechanically quashed the respective FIRs, in exercise of its powers under Section 482 Cr.P.C. The High Court has not at all considered the distinction between a personal or private wrong and a social wrong and the social impact. As observed by this Court in the case of *State of Maharashtra vs. Vikram Anantrai Doshi*, 2014 15 SCC 29, the Court's principal duty, while exercising the powers under Section 482 Cr.P.C. to quash the criminal proceedings, should be to scan the entire facts to find out the thrust of the allegations and the crux of the settlement. As observed, it is the experience of the Judge that comes to his aid and the said experience should be used with care, caution, circumspection and courageous prudence.

Consider the ratio of State of M.P v. Laxmi Narayan (2019)5 SCC 688.

15. The contents of compromise deed and its objectives point towards its rejection, in the light of the Judicial precedents mentioned above

16. However, the parties shall be at liberty to enter into a fresh compromise mentioning the reasons justifying the compromise and disruption of criminal proceedings. The dismissal of the present petition shall not come in the way of the fresh petition.

Petition dismissed in the terms mentioned above. All pending applications, if any stand closed.