



IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA
ON THE 11th DAY OF FEBURARY 2022

BEFORE

HON'BLE MS. JUSTICE JYOTSNA REWAL DUA
CRIMINAL MISC. PETITION (MAIN) NO.76 OF 2022

Between:-

SH. ABHISHEK
S/O SHRI VIJAY KUMAR,
R/O MARGHOONI,
POST OFFICE THURAI MALGHUNI KANGRA,H.P.
PIN 176107 AGED ABOUT 19 YEARS,
OCCUPATION: STUDENT.

.....PETITIONER

(BY SH. RAJESH KUMAR PARMAR, ADVOCATE)

AND

1. STATE OF HIMACHAL PRADESH THROUGH SECRETARY
(HOME)
2. MRS. MEERA ALIAS NEELAM D/O SHRI CHHATTE
W/O SH. SAHAJ RAM R/O VILLAGE & POST OFFICE
CHAUDHARYDIH, DISTRICT BALRAMPUR UTTAR
PRADESH. PIN 271207, AGED ABOUT 31 YEARS,
OCCUPATION HOUSEWIFE.

.....RESPONDENTS

(SH. HEMANT VAID, ADDITIONAL ADVOCATE
GENERAL, FOR R-1,
SH. SANJEEV SURI, ADVOCATE, FOR R-2.)

*This petition coming on for orders this day, the
Court passed the following:*

ORDERS

The instant petition has been moved under Section 482 of the Code of Criminal Procedure for quashing of FIR No.209/2021, dated 29.12.2021 registered under Sections 279 and 337 of the Indian Penal Code at Police Station Bhawarna District Kangra, H.P.

2. I have heard learned counsel for the parties.

3. Facts are that :-

FIR in question was registered on the basis of a complaint lodged by Sh. Sahaj Ram (husband of respondent No.2) to the effect that the petitioner while driving his motor cycle bearing Registration No. HP-36B-6033 in a rash and negligent manner collided with respondent No.2 on the road near Mona Babu's vegetable shop, as a result of which respondent No.2 sustained injuries. As per the compromise dated 05.01.2022 (Annexure P-3), parties have amicably settled all the issues arising out of the FIR in question. The compromise also records cordial relations of parties with each other and that respondent No.2 is not interested to pursue the aforesaid FIR any further.

4. The parties i.e. petitioner (Abhishek), respondent No.2 (Meera alias Neelam) and the complainant (Sahaj Ram

husband of respondent No.2) are present in the Court and have been identified as such by their respective learned counsel. By way of separate statements of the complainant and injured (respondent No.2) recorded today, all the parties have stood by the compromise. The parties have stated that compromise and settlement of dispute (FIR No.209/2021) is out of their free will and without any pressure, fear or influence whatsoever.

Learned Additional Advocate General has fairly submitted that he has no objection in case the relief prayed for in the petition is granted in view of the aforesaid compromise and in view of amicable settlement of the disputes between the parties.

5. The law laid down in respect of exercise of powers under Section 482 of the Code of Criminal Procedure for quashing or for refusing to quash the FIR and resultant proceedings on the basis of compromise effected by the parties in (2012) 10 SCC 303 titled **Gian Singh vs. State of Punjab**; (2014) 6 SCC 466 titled **Narinder Singh vs. State of Punjab**; (2017) 9 SCC 641 titled as **Parbatbhai Aahir vs. State of Gujarat**, has been noticed again by Hon'ble Apex Court in (2019) 5 SCC 688, titled as **State of Madhya Pradesh vs. Laxmi Narayan** with following observations:-

“ 15 . Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

15.1 That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved 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;

15.3 Similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or 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;

15.4 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;

15.5 While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.”

6. Applying the above guidelines to the instant case, I am of the considered view that the offences for which, the petitioner has been accused in FIR No. 209/2021, cannot be stricto-sensu said to be the offences against the State or involving social impact. In view of the amicable settlement arrived at between the parties, no fruitful purpose will be served in continuing the proceedings in question; the present case does not fall within the exceptions carved out by the Hon'ble Apex Court when amicable settlement arrived at between the parties cannot be acted upon for quashing the FIR and the consequent proceedings; the possibility of conviction in such circumstances would be very very remote. The continuation of the proceedings will be to the great detriment of the petitioner causing them unnecessary harassment and injustice. When the complainant does not

want to hold the accused person responsible, then quashing of such FIR would certainly be in the interest of justice.

Consequently, the present petition is allowed and FIR No. 209/2021, dated 29.12.2021, under Sections 279 and 337 of the Indian Penal Code registered at Police Station Bhawarna, District Kangra, H.P. and consequential proceedings arising out of it are quashed. The petition stands disposed of accordingly. Pending miscellaneous applications, if any, shall also stand disposed of.

Learned counsel for the petitioner is permitted to produce copy of order downloaded from the High Court website before the concerned authorities, who shall not insist for certified copy of the same, however, it may verify the order from the High Court website or otherwise.

Jyotsna Rewal Dua
Vacation Judge

11th February 2022 (rohit)