

**IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA**

**CRMMO Nos.75 & 76 of 2020
Decided on: 31.01.2020**

Cr.MMO No.75 of 2020

Shiv Kumar & otherspetitioners

Versus

State of H.P. & another respondents

Cr.MMO No.76 of 2020

Rohit Kumar & otherspetitioners

Versus

State of H.P. & another respondents

Coram

The Hon'ble Ms. Justice Jyotsna Rewal Dua, Judge.

Whether approved for reporting?¹

For the petitioners :

Mr. Pawan K. Sharma, Advocate for the petitioners in Cr.MMO No.75/2020 and for the complainant in Cr.MMO No.76/2020.

For the respondents :

Mr. Ranjan Sharma, Mr.P.K. Bhati, Additional Advocate General with Ms. Svaneel Jaswal and Ms. Divya Sood, Deputy Advocate General for respondent No.1 in both petitions.

Mr. Dheeraj K. Vashisht, Advocate, for respondent No.2 in Cr.MMO No.75/2020 and for the petitioners in Cr.MMO No.76/2020.

Complainants Mr. Shiv Kumar and Mr. Rohit Kumar, present in person.

¹ *Whether reporters of the local papers may be allowed to see the judgment?*

Jyotsna Rewal Dua, J (Oral)

The prayer made in Cr.MMO Nos.75 & 76 of 2020, is for quashing of FIR Nos.107 & 106 of 2019, dated 31.07.2019, under Sections 324, 504 & 34 IPC and Sections 323, 341 and 34 IPC, respectively, registered at Police Station Amb, District Una, H.P. as well as the consequential criminal proceedings pending before learned Additional Chief Judicial Magistrate-I, Amb District Una, H.P.

2. It appears from the record that cross-FIRs were lodged by the complainants namely Rohit Kumar and Shiv Kumar, against each other including the other petitioners. It is averred in both the petitions that the parties have amicably resolved their disputes inter se them and do not want to pursue the matter any further. Therefore it has been prayed that the FIR and the resultant proceedings be quashed and set aside.

3. I have heard learned counsel for the parties as well as the complainants Rohit Kumar and Shiv Kumar who are present before this Court and are identified as such by their respective counsels.

4. The dispute between the parties arose out of the abusive language used by them inter se on account of one horse allegedly tied wrongly along side of the fields of Shiv Kumar and others. The resultant altercation led to registration of above numbered cross-FIRs by the parties. Compromise for settling the matter has been effected inter se the parties on 27.1.2020, which has been placed on record as Annexure P-2.

5. It is stated by the parties present in Court that they have effected the compromise dated 27.01.2020 (Annexure P-2) in respect of incident in question, and that this compromise has been effected by them freely without any pressure or influence. It is further stated by them that they are having cordial relations now amongst themselves and are not interested to pursue the cases against each other any further. These averments are reiterated by learned counsel for the parties.

6. Learned Additional Advocate General has fairly submitted that he has no objection in case the relief prayed for in the petitions is allowed in view of the compromise effected between the parties.

7. 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 laid down 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.”

8. Applying the above guidelines to the instant case, I am of the considered view that the offences for which, the petitioners have been made

accused in FIRs in question, 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 cases do 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 bleak/remote. The continuation of the proceedings will be to the great detriment of the petitioners causing them unnecessary harassment and injustice. When the complainants do not want to hold the accused persons responsible, then quashing of such FIR would certainly be in the interest of justice.

Consequently, in view of the above, the present petitions are allowed and FIR Nos.107 & 106 of 2019, dated 31.07.2019, under Sections 324, 504 & 34 IPC and 323, 341 and 34 IPC, respectively, registered at Police Station Amb, District Una, H.P. as well as the consequential criminal proceedings pending before learned Additional Chief Judicial Magistrate Court No.1, Amb District Una, H.P. are quashed and set aside. The petitions stand disposed of accordingly, so also pending application(s) if any.

(Jyotsna Rewal Dua)
Vacation Judge

31.01.2020
(Rohit)