

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CrMMO No. 185 of 2023

Decided on : 31.03.2023

Rahul Sharma

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

Coram

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?¹

For the petitioner: Mr. Janak Raj, Advocate.

For the respondents: Ms. Seema Sharma, Deputy Advocate
General, for respondent No. 1.

Mr. Abhinav Mehta, Advocate, for
respondent No. 2.

Virender Singh, Judge. *(Oral)*

Petitioner-Rahul Sharma has filed the present petition, under Section 482 of the Code of Criminal Procedure (hereinafter referred to as 'CrPC'), for quashing FIR No. 7 of 2022, dated 24th April, 2022, registered under Sections 354-D and 506 of the Indian Penal Code (hereinafter referred to as

¹ *Whether Reporters of local papers may be allowed to see the judgment? Yes.*

the 'IPC'), with Women Police Station Hamirpur, District Hamirpur, as well as, the proceedings resultant thereto, which are stated to be pending in the Court of learned Judicial Magistrate First Class-II, Hamirpur, District Hamirpur.

2. According to the petitioner, on the statement of respondent No. 2, the FIR in question has been registered and now, with the intervention of the respectable persons and friends, the dispute between the petitioner and respondent No. 2, has been settled and in order to maintain the cordial relations and to secure their future, the parties, i.e. the petitioner and respondent No. 2, have entered into a compromise, which was written on 22nd February, 2023, copy whereof has been placed on record as Annexure P-2.

3. On the basis of above facts, a prayer has been made to quash FIR No. 7 of 2022, dated 24th April, 2022 and the proceedings, resultant thereto.

4. The petition is duly supported by the affidavit of petitioner-Rahul Sharma. A copy of the compromise deed, dated 22nd February, 2023, has also been placed on record.

5. When put on notice, only, respondent No. 1, i.e. State, has contested the petition, by filing the reply, in which

the factual position, with regard to the registration of FIR, as well as, filing of the report, under Section 173 (2) CrPC, has not been disputed.

6. Apart from this, a strange objection has been taken by the State, that the compromise, dated 22nd February, 2023, is doubtful, as, the same has been got attested at Mahendergarh in Haryana, whereas, the witnesses, cited therein, are residents of District Hamirpur in Himachal Pradesh.

7. On all these submissions, a prayer has been made to dismiss the petition.

8. Today, respondent No. 2-Neha Thakur, who has lodged the FIR in question, against the petitioner, appeared and deposed that the above FIR has been lodged by her and now, she does not want to proceed further with the present dispute, as, the matter has been settled between them amicably. She has proved the compromise deed, Annexure P-2, by stating that the same bears her signatures.

9. According to her, the compromise has been effected between the parties to save their future and they have entered into the said compromise out of their free will. Lastly, she has

stated that she has no objection, in case, FIR No. 7 of 2022, dated 24th April, 2022, registered against the petitioner and the proceedings resultant thereto, are quashed.

10. Similar statement has been made by petitioner-Rahul Sharma.

11. Moreover, the alleged offence, involved in the present case, does not fall within the exception, as carved out by the Hon'ble Supreme Court, in **Narinder Singh and others versus State of Punjab and another**, reported in **(2014) 6 Supreme Court Cases 466**, whereby the Hon'ble Supreme Court has formulated the guidelines for accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings.

12. Perusal of judgment, referred to above, clearly depicts that in para 29.1, the Hon'ble Supreme Court has returned the findings that power conferred under Section 482 CrPC, is to be distinguished from the power, which lies in the Court, to compound the offences under Section 320 CrPC.

13. No doubt, under Section 482 CrPC, 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 in view of the guiding principles as decided by the Hon'ble Supreme Court in **Narinder Singh's case (supra)**. The relevant portion of the judgment is reproduced, as under:

29. 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:

29.1. 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.

29.2. 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 under Section 482 Cr.P.C the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. 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 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.

29.4. 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.

29.5. 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.

29.6. 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.

29.7. 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”.

14. Judging the fact and circumstances of the present case, in the light of the decision rendered by the Hon’ble

Supreme Court, in **Narinder Singh's case (supra)**, this Court is satisfied that the parties, i.e. the petitioner and respondent No. 2, have entered into the compromise, in order to save their future.

15. When the person, who has put the criminal machinery into motion, has entered into a compromise, with the accused (petitioner), then, the chances of success of the trial against the accused (petitioner) become very bleak. Moreover, acceptance of the prayer, as made in the petition, would also save the complainant from humiliation, as, according to her, the compromise has been effected between the parties, in order to save their future.

16. Not only this, the acceptance of the petition will save the precious time of the Court, which the Court could utilize for some other serious dispute to decide.

17. So far as the objection of respondent No. 1 (State), in the reply, qua the fact that the compromise has been effected between the parties at Mahendergarh in Haryana, is concerned, there is no substance in the said submission, as, Mahendergarh is also a part of India and the petitioner is

resident of the said District. As such, the attestation of the compromise, Annexure P-2, at Mahendergarh, is not unusual.

18. Moreover, the factum of entering into the compromise has been stated by respondent No. 2 (complainant), on oath, before this Court.

19. Considering all these facts, the petition is allowed and FIR No. 7 of 2022, dated 24th April, 2022, registered under Sections 354-D and 506 IPC, with Women Police Station Hamirpur, District Hamirpur, as well as, the proceedings resultant thereto, stated to be pending in the Court of learned Judicial Magistrate First Class-II, Hamirpur, District Hamirpur, are ordered to be quashed.

20. The compromise, Annexure P-2, as well as the statements of the parties to the compromise, made today, in the Court, shall form part of the judgment.

21. Pending miscellaneous applications, if any, shall also stand disposed of accordingly.

(Virender Singh)
Judge

March 31, 2023
(*rajni*)