

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 20th September, 2021

IN THE MATTER OF:

+ CRL.M.C. 2021/2021

MUKHTIYAAR ALI & ORS. Petitioners
Through Mr. Rishipal Singh, Advocate with
petitioners in person

versus

THE STATE NCT DELHI & ORS Respondents
Through Ms. Meenakshi Chauhan, APP for the
State with ASI Naresh, PS Jaffrabad
Complainants in person

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

SUBRAMONIUM PRASAD, J.

1. This petition under Section 482 Cr.P.C is for quashing FIR No.333/2020 dated 03.08.2020, registered at Police Station Jafrabad for offences under Sections 307/34 IPC.
2. Facts, in brief, leading to the present petition are as under:
 - a) On 02.08.2020, information was received from Jag Pravesh Chandra Hospital stating that a person has been admitted in the hospital. The said information was entered *vide* DD No.60A. ASI Naresh reached the hospital and collected the MLC of the victim, being MLC No.4920/2020. In the MLC, the doctor has opined that the victim had been assaulted by some unknown persons and the nature of injuries was opined to be serious. It was found that the victim, Imran, was shifted to the RML

Hospital for further treatment. The victim was found in the ICU of the RML hospital and he was unfit for the statement. Victim's father, Abdul Gaffar, gave a statement in the hospital itself stating that on 02.08.2020, at around 9:30 PM he was at *Akhade Wali Gali* when someone told him that someone is quarreling with his son Imran. It is stated that when he reached the spot he saw that one Hannan, Adnan @ Chote and the petitioner herein were quarreling with his son. It is stated that Hannan and the petitioner herein were holding his son and Adnan stabbed him in the stomach and they all escaped from the spot. It is stated that the victim was brought to the JPC Hospital and from there he was referred to the RML Hospital for further treatment. On the statement of the father of the victim, FIR No.333/2020 dated 03.08.2020, was registered at Police Station Jafrabad for offences under Sections 307/34 IPC.

3. Investigation is complete.
4. The material on record disclose that Hannan was declared as a Proclaimed Offender. The opinion on the MLC was obtained from the RML Hospital and the injuries were found to be serious in nature. Charge-sheet has been filed. In the charge-sheet it is stated that there is enough material against the accused to proceed ahead against him under Sections 307/34 IPC.
5. It is stated that in the interregnum the parties have entered into a compromise. The compromise deed has been filed along with the petition. The compromise deed shows that the accused will pay a sum of Rs.3,00,000/- as compensation/medical/other charges. It is stated that out of

Rs.3,00,000/- the accused have paid Rs.1,00,000/- to the victim at the time of signing of the settlement agreement and the remaining amount will be paid at the time of quashing of the FIR.

6. Heard Mr. Rishipal Singh, learned counsel for the petitioner and Ms. Meenakshi Chauhan, learned APP for the State and perused the material on record.

7. The learned counsel for the petitioner states that the parties reside in the same area and they are distantly related to each other. He states that the victim was attacked only with a kitchen knife. It is stated that the parties have decided to settle their disputes and have entered into compromise. He contends that in order to ensure that both sides live peacefully the FIR be quashed.

8. Ms. Meenakshi Chauhan, learned APP for the State, strongly opposes the instant petition and had held that the petitioner has been stabbed twice in the abdomen and has suffered serious injuries. She states that the High Court should not exercise its jurisdiction under Section 482 Cr.P.C for quashing those offences which are heinous in nature. She places reliance on a judgment dated 19.11.2019 passed by this Court in **CRL.A. 1141/2017** titled as Sonu @ Shahnawaz v. State (NCT Govt. of Delhi), wherein it was held that kitchen knife is a deadly weapon. She also places reliance on another judgment dated 28.04.2017 passed by this Court in **W.P.(CRL) 1237/2017** titled as Rampla Singh & Ors. v. NCT of Delhi & Ors, wherein this Court has refused to quash an offence under Section 307 IPC on the ground that the dispute has been resolved between the parties.

9. The present case is for quashing the criminal proceedings for offences under Section 307 IPC on the ground that the parties have entered into a

settlement. There was a conflict of opinions in the Supreme Court as to whether an offence under Section 307 IPC could be quashed by the High Court while exercising its power under Section 482 Cr.P.C. The Supreme Court in State of Rajasthan v. Shambhu Kewat, (2014) 4 SCC 149, held that an offence under Section 307 IPC is a serious offence and ordinarily should not be quashed by the High Court while exercising its powers under Section 482 Cr.P.C on the ground that the parties have settled their disputes. The Supreme Court observed as under:

“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, is 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. The High Court was not right in thinking that it was only an injury to the person and since the accused persons (sic victims) 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.” (emphasis supplied)

10. On the other hand the Supreme Court in Narinder Singh v. State of Punjab, (2014) 6 SCC 466, after noticing the judgment in State of Rajasthan v. Shambhu Kewat (supra) quashed the proceedings under Section 307 IPC and observed as under:

“22. Thus, we find that in certain circumstances, this Court has approved the quashing of proceedings under Section 307 IPC whereas in some other cases, it is held that as the offence is of serious nature such proceedings cannot be quashed. Though in each of the aforesaid cases the view taken by this Court may be justified on its own facts, at the same time this Court owes an explanation as to why two different approaches are adopted in various cases. The law declared by this Court in the form of judgments becomes binding precedent for the High Courts and the subordinate courts, to follow under Article 141 of the Constitution of India. Stare decisis is the fundamental principle of judicial decision-making which requires “certainty” too in law so that in a given set of facts the course of action which law shall take is discernible and predictable. Unless that is achieved, the very doctrine of stare decisis will lose its significance. The related objective of the doctrine of stare decisis is to put a curb on the personal preferences and priors of individual Judges. In a way, it achieves equality of treatment as well, inasmuch as two different persons faced with similar circumstances would be given identical treatment at the hands of law. It has, therefore, support from the human sense of justice as well. The force of precedent in the law is heightened, in the words of Karl Llewellyn, by “that curious, almost universal sense of

justice which urges that all men are to be treated alike in like circumstances”.

23. As there is a close relation between equality and justice, it should be clearly discernible as to how the two prosecutions under Section 307 IPC are different in nature and therefore are given different treatment. With this ideal objective in mind, we are proceeding to discuss the subject at length. It is for this reason we deem it appropriate to lay down some distinct, definite and clear guidelines which can be kept in mind by the High Courts to take a view as to under what circumstances it should accept the settlement between the parties and quash the proceedings and under what circumstances it should refrain from doing so. We make it clear that though there would be a general discussion in this behalf as well, the matter is examined in the context of the offences under Section 307 IPC.

24. The two rival parties have amicably settled the disputes between themselves and buried the hatchet. Not only this, they say that since they are neighbours, they want to live like good neighbours and that was the reason for restoring friendly ties. In such a scenario, should the court give its imprimatur to such a settlement? The answer depends on various incidental aspects which need serious discourse. The legislators have categorically recognised that those offences which are covered by the provisions of Section 320 of the Code are concededly those which not only do not fall within the category of heinous crimes but also which are personal between the parties. Therefore, this provision recognises where there is a compromise between the parties, the court is to act at the said compromise and quash the proceedings. However, even in respect of such offences not covered within the four corners of Section 320 of the Code, the

High Court is given power under Section 482 of the Code to accept the compromise between the parties and quash the proceedings. The guiding factor is as to whether the ends of justice would justify such exercise of power, both the ultimate consequences may be acquittal or dismissal of indictment. This is so recognised in various judgments taken note of above.” (emphasis supplied)

11. In view of the conflict between the two judgments, the matter was referred to a larger Bench and the larger Bench of Supreme Court in State of M.P. v. Laxmi Narayan, (2019) 5 SCC 688, resolved the conflict by observing as under:

“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/delicate parts of the body, nature of weapons used, etc. However, such an exercise by the High

WWW.LIVELAW.IN

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 paras 29.6 and 29.7 of the decision of this Court in Narinder Singh [Narinder Singh v. State of Punjab, (2014) 6 SCC 466 : (2014) 3 SCC (Cri) 54] should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove"
(emphasis supplied)

12. Considering the parameters laid down by the larger Bench of the Supreme Court, the High Court while exercising its jurisdiction under Section 482 Cr.P.C has held that an offence under Section 307 IPC will fall under the category of heinous offence, and therefore, has to be treated as a crime against the society and not against the individual alone and the proceedings under Section 307 IPC cannot be quashed only on the ground that the parties have resolved the entire disputes amongst themselves. The parameters laid down in State of M.P. v. Laxmi Narayan (supra) state that the powers conferred on the High Court under Section 482 Cr.P.C can be exercised keeping in mind the injuries sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used etc.

13. Considering the law laid down by the Supreme Court in State of M.P. v. Laxmi Narayan (supra) it can be seen that this is not an ordinary fight between the neighbours, the petitioners have to thank themselves that they are not facing trial in a case of murder because in ordinary circumstances the injuries inflicted by the petitioners were sufficient to cause death. As stated in the MLC, the victim had to undergo multiple blood transfusions on 03.08.2021 and 04.08.2021. The victim had to undergo surgery and had to

be kept in surgical ICU on. The MLC further reveals that the victim had suffered two stab wounds of size 5 cm x 1 cm on the left side of the midline and of size 4 cm x 1 cm on the right side of the midline, perforations were found on the bowel walls of the petitioner. It is further revealed that about 500 ml blood was found in the abdominal cavity. There were multiple tears in the bowel line and diffusion ooze was present in the bowel lining and two drains had to be placed in the abdominal cavity.

14. The victim has been attacked with a dangerous weapon i.e. a knife. As stated above, injuries are such which would have caused death in the ordinary circumstances. Applying the principles laid down by the Supreme Court in State of M.P. v. Laxmi Narayan (supra), this Court is not inclined to quash the FIR solely on the ground that the parties have entered into a compromise.

15. Accordingly, the petition is dismissed along with the pending application(s), if any.

SUBRAMONIUM PRASAD, J

SEPTEMBER 20, 2021

Rahul