

**Court No. - 64**

**A.F.R.**

**Case :- APPLICATION U/S 482 No. - 9973 of 2023**

**Applicant :- Narendra Pratap Singh**

**Opposite Party :- State of U.P. and another**

**Counsel for Applicant :- Surya Pratap Singh Parmar, Vandana Singh  
Parmar**

**Counsel for Opposite Party :- G.A., Preyansh Mishra**

**Hon'ble J.J. Munir, J.**

Mr. Preyansh Mishra, Advocate has filed his *vakalatnama* on behalf of opposite party no. 2 along with a short counter affidavit, which are taken on record.

2. Heard Mr. Surya Pratap Singh Parmar, learned Counsel for the applicant and Mr. Preyansh Mishra, learned Counsel appearing on behalf of opposite party no. 2.

3. This is an application under Section 482 of the Code of Criminal Procedure, 1973<sup>1</sup> seeking to quash the entire proceedings of Sessions Trial No. 218 of 1991, State v. Narendra Pratap Singh (arising out of Case Crime No. 14 of 1991) under Section 307 of the Indian Penal Code, 1860<sup>2</sup>, Police Station Sarai Inayat, District Prayagraj, pending in the Court of the Additional Sessions Judge, Court No. 22, Allahabad.

4. It is submitted by the learned Counsel for both parties that they have compromised the matter, inasmuch as the informant and the accused, that is to say, the applicant and opposite party no. 2 are cousins and now, the complainant does not want to pursue the prosecution any further. The learned Additional Sessions Judge *vide* order dated 15.02.2023 has rejected the compromise application, holding that in this case, the charges against the accused are of assaulting the complainant-opposite party, the injured Chandra Narayan, with an intent to kill him. The case is of a

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1 'Code' for short

2 'I.P.C.' for short

heinous nature and is not compoundable. It is on that basis that the learned Judge has declined to verify the compromise and rejected the application.

5. It is quite another matter that the learned Judge could not have allowed the compromise application herself, because the offence is not compoundable. All that she could have done was to verify the compromise, on which, this Court could have acted. In connection with quashing of prosecutions by the Trial Court, where parties have compromised in exercise of powers under Section 482 of the Code, illuminating guidance is provided by the decision of the Supreme Court in **Narinder Singh and others v. State of Punjab and another, (2014) 6 SCC 466**, which was incidentally a case relating to an offence punishable under Section 307 I.P.C. In the context of the High Court's powers to quash proceedings under Section 307 I.P.C., it was held in **Narinder Singh (supra)** :

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.

**25.** In *Dimpey Gujral* [*Dimpey Gujral v. UT, Chandigarh*, (2013) 11 SCC 497 : (2012) 4 SCC (Cri) 35] , observations of this Court were to the effect that offences involved in that case were not offences against the society. It included charge under Section 307 IPC as well. However, apart from stating so, there is no detailed discussion on this aspect. Moreover, it is the other factors which prevailed with the Court to accept the settlement and compound the offence, as noted above while discussing this case. On the other hand, in *Shambhu Kewat* [*State of Rajasthan v. Shambhu Kewat*, (2014) 4 SCC 149 : (2014) 4 SCC (Cri) 781 : (2013) 14 Scale 235] , after referring to some other earlier judgments, this Court opined that commission of offence under Section 307 IPC would be crime against the society at large, and not a crime against an individual only. We find that in most of the cases, this view is taken. Even on first principle, we find that an attempt to take the life of another person has to be treated as a heinous crime and against the society.

**26.** Having said so, we would hasten to add that though it is a serious offence as the accused person(s) attempted to take the life of another person/victim, at the same time the court cannot be oblivious to hard realities that many times whenever there is a quarrel between the parties leading to physical commotion and sustaining of injury by either or both the parties, there is a tendency to give it a slant of an offence under Section 307 IPC as well. Therefore, only because FIR/charge-sheet incorporates the provision of Section 307 IPC would not, by itself, be a ground to reject the petition under Section 482 of the Code and refuse to accept the settlement

between the parties. We are, therefore, of the opinion that while taking a call as to whether compromise in such cases should be effected or not, the High Court should go by the nature of injury sustained, the portion of the bodies where the injuries were inflicted (namely, whether injuries are caused at the vital/delicate parts of the body) and the nature of weapons used, etc. On that basis, if it is found that there is a strong possibility of proving the charge under Section 307 IPC, once the evidence to that effect is led and injuries proved, the Court should not accept settlement between the parties. On the other hand, on the basis of prima facie assessment of the aforesaid circumstances, if the High Court forms an opinion that provisions of Section 307 IPC were unnecessarily included in the charge-sheet, the Court can accept the plea of compounding of the offence based on settlement between the parties.

(emphasis by Court)

6. Here, what the Court finds is that the injuries sustained by the applicant, as would appear from a perusal of the injury report dated 06.01.1991, are four firearm wounds of entry, and two of exit. None of the wounds show tattooing or charring. It is, no doubt, true that all gunshot injuries have been sustained on the limbs and not on the torso or any vital part of the complainant's body, but that does not show that the offence was not heinous or there was no intention to kill. If a man shoots another, inflicting as many as four gunshot wounds, notwithstanding the fact that the injuries were sustained on the limbs, where possibly, they would not have produced a fatal result, it does not detract in the least from the gravity of the crime. The fact that the victim did not receive injuries to one or other vital parts of the body can only be credited to the victim's good luck or providence smiling on him. In an offence of this kind, this Court is in absolute agreement with the learned Trial Judge that anything in aid of composition of the offence, cannot be permitted. This Court too would not exercise its powers under Section 482 of the Code to quash the prosecution in an offence of this nature, where the conscience of the society is most certainly involved. It is not an offence which is in the

domain of a kind of private dispute between parties, about which the society may have no substantial concern.

7. In view of the above, the prayer to quash proceedings of the aforesaid case is hereby refused.

8. It is, however, clarified that the remarks in this order may not be construed to mean that the applicant is guilty of the offences charged. That is to be tested at the trial, unaffected by any remark in this order.

9. In the result, this application **fails** and consequently, stands **rejected**.

10. Let this order be communicated to the Additional Sessions Judge, Court No. 22, Allahabad through the learned Sessions Judge, Allahabad by the Registrar (Compliance).

**Order Date :-** March 24, 2023

I. Batabyal

(J.J. Munir, J.)