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**IN THE HIGH COURT OF DELHI AT NEW DELHI**

**Reserved on: 14<sup>th</sup> February, 2023**

**Pronounced on: 27<sup>th</sup> February, 2023**

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CRL.M.C. 428/2023

MANOJ

..... Petitioner

Through: Mr. K. K. Vaid, Advocate.

versus

STATE GOVT OF NCT DELHI & ORS.

..... Respondents

Through: Mr. Hitesh Vali, APP for the State with SI  
Amit Kumar and ASI Vijay K., PS Madhu  
Vihar.

Mr. Sona Ram Gupta and Mr.Sandeep Jain,  
Advocates for R-2 & 3.

**CORAM:**

**HON'BLE MR. JUSTICE AMIT SHARMA**

**JUDGMENT**

**AMIT SHARMA, J.**

1. The present petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'CrPC') seeks quashing of FIR bearing number 277/2022 dated 01.04.2022, registered at PS Madhu Vihar, for offence under Section 307 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC'), and all other proceedings emanating therefrom including the chargesheet pending before the Court of learned Metropolitan Magistrate, Karkardooma Court.

2. Learned Counsel for the petitioner submits that the matter has already been settled between the petitioner and respondent no. 3 and an affidavit with regard to the same is annexed with the petition. Therefore, it is prayed that in view of the settlement, the present FIR number 277/2022 dated 01.04.2022, registered at PS Madhu Vihar, for offence under Section 307 of the IPC be quashed. In support of his submissions, the learned counsel has relied upon the following judgments:
  - a. Mahendra Singh @ Sunny & Anr. V. State & Ors. (Crl. M.C. 852/2021 & 4232/2021)
  - b. Narinder Singh v. State of Punjab, (2014) 6 SCC 466
3. It is submitted that the injured/respondent no. 3 is the brother-in-law of the petitioner. It is further submitted that there is no material on record, except the disclosure statement, with regard to the motive of the crime. It is urged that since the petitioner was not armed with any weapon at the time of the alleged incident, therefore, it is not premeditated, and thus it cannot be stated to be an assault with the intention to kill respondent no. 3. It is further submitted that the petitioner is in judicial custody since 01.04.2022.
4. The learned APP for the State has vehemently opposed the quashing of the present FIR on the ground that the injury inflicted, as per the MLC, was grievous in nature. It is further contended that the act of present petitioner covering his face with his shirt in order to hide his identity from the CCTV camera, before hitting respondent no. 3, clearly indicates his intention to commit the crime. It is further submitted that the crime committed is brutal in nature.
5. Heard the learned counsel for the parties and perused the record.

6. For the purpose of adjudication of the present petition, facts as recorded in the status report, are reproduced herein:
- i. On 01.04.2022, Suraj Singh (respondent no. 2), made a PCR Call to PS Madhu Vihar, reporting robbery and quarrelling at RG Square Mall, near Max Hospital, IP Extension, Delhi. Upon reaching the spot, it was found that the injured had already been rushed to LBS Hospital, Khirchirpur, Delhi.
  - ii. As per the chargesheet, on reaching the hospital, it was allegedly informed by the concerned doctor that the injured had a lacerated wound above left eyebrow of size 2 x 0.5 cm and a lacerated wound on left parietal area, however, there was no active bleeding. It is further alleged that the injured was unfit for giving statement and was referred to GTB Hospital for further treatment. Due to the injured being unconscious, his statement could not be recorded at GTB Hospital either.
  - iii. During enquiry, one Suraj, who was present in the hospital and is alleged to be the PCR caller, stated that he had received a call from his friend, namely Bunty, from Uttar Pradesh, who is alleged to be the brother of injured, informing him that Manoj, the present petitioner, has told him that Khushi Ram, the injured, had a quarrel with few strangers. Allegedly, he further informed that Manoj was already present at the spot and Khushi Ram was found in injured condition. Thereafter, he made the PCR call and both of them, Manoj and Suraj, rushed the injured to LBS Hospital, Khirchirpur.
  - iv. During investigation, CCTV footage of the area was scrutinized by the police along with Suraj, wherein it was found that Manoj, the

present petitioner, reached the spot around 03:50 AM, holding a stick (*danda*), thereafter, he identified Khushi Ram with the help of his phone's flashlight. After roaming around the vicinity for some time, at around 04:10 AM, the present petitioner took off his shirt to cover his face with the same and picked up a cement brick lying nearby. It is alleged that around 04:13 AM, the present petitioner started attacking the injured, it was further noticed that at one time, the brick slipped away from his hand, however, he picked it up again and attacked Khushi Ram's head with it almost 13 times.

- v. It is the case of the prosecution that to mislead the Police and the family members of the injured, the present petitioner called the brother of injured and informed him that Khushi Ram, the injured, had a quarrel with few strangers. Thereafter, on Suraj reaching the spot, the present petitioner informed him that two unknown persons had beaten up the injured and then ran away with his mobile phone.
  - vi. Pursuant thereto, FIR bearing no. 277/2022 was registered at PS Madhu Vihar, for offence under Section 307 of the IPC.
  - vii. It is alleged that weapon of offence and mobile phone of the injured was recovered at the instance of the present petitioner, Manoj.
  - viii. According to the final opinion received in MLC 1697/2022, the injuries were found to be grievous in nature.
  - ix. Thereafter, chargesheet was filed against the present petitioner under Section 307 IPC before the concerned Court on 22.06.2022.
7. The Hon'ble Supreme Court of India in *Narinder Singh v. State of Punjab*, (2014) 6 SCC 466, while approving the quashing of offence under Section 307 of the IPC by the High Court on the basis of compromise, laid down

guidelines to be kept in mind by the High Courts to decide as to under what circumstances such quashing may be permitted. It was observed and held 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 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 the 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 hand, those criminal cases having overwhelmingly and predominantly 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 are 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/delicate 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 latter 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 to 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."

8. Further, the Hon'ble Supreme Court of India, in State of M.P. v. Laxmi Narayan, (2019) 5 SCC 688, after discussing Narinder Singh (*supra*) has laid down 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 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 (*supra*) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove."

9. It is observed that the involvement of the present petitioner was revealed during investigation, after scrutiny of the CCTV footage of the vicinity. It is apparent that even respondent no. 3/injured was not aware of the fact that the injuries caused to him were caused by the present petitioner. The evidence in the present chargesheet, is by way of CCTV footage and the possibility of conviction is therefore, not remote or bleak. Apart from that, the manner in which the present petitioner inflicted injuries on respondent no. 3 is gruesome. The investigation has revealed that the present incident was not at the spur of the moment. As per the facts recorded in the status report, the present petitioner first identifies the respondent no. 3 with his phone's flashlight and after making attempt to hide his identity, hits the respondent no. 3 with a cement brick almost 13 times while the latter was sleeping.
10. In view of the above facts and circumstance and the guidelines laid down by the Hon'ble Supreme Court of India contained in Para 29 of *Narinder Singh v. State of Punjab (supra)* and Para 15.4 of *State of M.P. v. Laxmi Narayan (supra)*, this court is not inclined to quash the aforesaid FIR on the basis of compromise between the petitioner and respondent no. 3.
11. The present petition is dismissed at this stage and disposed of accordingly. Pending application(s), if any, also stand disposed of.
12. Needless to state, nothing herein shall be construed as an expression on the merits of the case pending before the learned trial Court.

**AMIT SHARMA  
JUDGE**

**FEBRUARY 27, 2023/ab**