

**Ramesh Kumar Vs. State and anr**

**Ramesh Kumar Vs. State and anr**

**SooperKanoon Citation :** [sooperkanoon.com/1171926](http://sooperkanoon.com/1171926)

**Court :** Delhi

**Decided On :** Oct-28-2014

**Judge :** Sudershan Kumar Misra

**Appellant :** Ramesh Kumar

**Respondent :** State and anr

**Advocate for Def. :** Mr. P.K. Mishra

**Advocate for Pet/Ap. :** Mr. R.P. Luthra, Mr. Sourach Luthra

**Judgement :**

§~2 \* + IN THE HIGH COURT OF DELHI AT NEW DELHI CRL.M.C. 4007/2014  
RAMESH KUMAR Through: ..... Petitioner Mr. R.P. Luthra, Sr. Advocate with Mr. Sourach Luthra, Advocate with petitioner in person versus STATE & ANR Through: ..... Respondents Mr. P.K. Mishra, APP with ASI Desh Raj Singh, PS Gazipur with R-2 in person CORAM: HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA % SUDERSHAN KUMAR MISRA, J.

(ORAL) 1. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of FIR No.210/2012 registered under Section 307 IPC at Police Station Ghazipur on 07.06.2012 on the ground that the matter has been settled between the parties.

2. Issue notice.

3. Counsel for the State enters appearance and accepts notice. The second respondent/complainant, Sandeep Kumar, is also present in person. The complainant, as well as the petitioner, are identified by the Investigating Officer, Assistant Sub-Inspector Desh Raj Singh.

4. It is stated that the aforesaid FIR came to be lodged by the complainant as a consequence of an injury sustained by him in an altercation that took place with his paternal uncle, Ramesh Kumar, who being in an inebriated condition, assaulted him with a kitchen knife.

5. It is stated that with the intervention of various family members, a settlement had been arrived at between the petitioner and the complainant. Counsel for the petitioner further states, on instructions from the petitioner, that he is also prepared to pay any reasonable compensation to the complainant in this regard and he has offered to pay a sum of Rs.25,000/- to the complainant.

6. The complainant, who is present in person, states that the said offer is acceptable to him and that he does not wish to pursue the matter any further with a view to maintaining harmony within the family since the petitioner also happens to be his paternal uncle. Counsel for the State submits that looking to the overall circumstances, and since both the parties are closely related to each other and have amicably resolved the matter, inter alia, with the aforesaid offer of compensation, no useful purpose would be served in proceeding with the matter where the complainant is not prepared to support the prosecution.

7. Looking to the decisions of the Supreme Court in *Gian Singh v. State of Punjab*, (2012) 10 SCC303 which has referred to a number of matters for the proposition that even a non-compoundable offence can also be quashed on the ground of a settlement agreement between the offender and the victim, if the circumstances so warrant; and also *Narinder Singh and Ors. v. State of Punjab and Anr.* 2014(2) Crimes 67 (SC) where the Supreme Court held as follows:

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 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 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 Indian Penal Code 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 Indian Penal Code 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 Indian Penal Code 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 Indian Penal Code. 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 Indian Penal Code 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 Indian Penal Code 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.

And the judgment of this Court in *Basara and Ors. v. State and Anr.* in CrI. M.C. No.6621-24/2006 decided on 3rd September, 2007, wherein it was, inter alia, held as under:

14. ....Peace has been brought in the locality with the intervention of the well wishers of the locality. When there is peace in locality, there will be peace in the town. When there is peace in town, there will be peace in city. When there is peace in city, there will be peace in State. When there is peace in State, there will be peace in country.....

15. The petition is according allowed. FIR No.4/2005 registered against the petitioners under Section 307 read with Section 34 IPC with Police station Samay Pur Badli is quashed and all consequent proceedings pursuant thereto are also ordered to be dropped.

I am of the considered opinion that since both the parties are closely related to each other being uncle and nephew where the parties have settled the matter with each other on terms and the complainant/injured is not interested in supporting the prosecution any further, thereby reducing its chances of success, it is best to give a quietus to the matter at this stage itself subject, of course, to the payment of Rs. 25,000/- to the complainant/second respondent towards compensation. The said amount has been handed over to him in Court today.

8. Consequently, the petition is allowed, and the FIR No.210/2012 registered under Section 307 IPC at Police Station Ghazipur on 07.06.2012, and all the proceedings emanating therefrom, are hereby quashed.

9. The petition stands disposed off. SUDERSHAN KUMAR MISRA, J.

OCTOBER28 2014 rd

**SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com**