

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

Date of decision:07.12.2015

Kazuhiro Chabata

.....Petitioner

v.

State of Haryana and others

.....Respondent

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.Vaneet Soni,Advocate for the petitioner

Mr.RK Doon,AAG Haryana

Mr.Gursimranjit Singh,Advocate for respondents 2 & 3/
parents of the deceased.

Jaswant Singh,J.(Oral)

Petitioner alongwith his deceased colleague Kazuya Fujita are Engineers and were engaged in execution of some work in the premises of M/s Caparo MI Steel Pvt.Ltd.,Rewari when an accident took place resulting in the death of said Kazuya Fujita and FIR no.332 dated 6.9.2014 under Section 304-A IPC was got registered by Mr.Sudesh Kumar Yadav,Production Manager of the Company at PS Model Town,Rewari. It is stated that since the death of said Kazuya Fujita had occurred on account of inadvertent mistake and without any *mens rea* a settlement has been arrived at between petitioner-accused and parents of deceased-Kazuya Fujita namely Ritsuko Fujita (mother) and Wakio Fujita(father). The settlement deed has been drawn at

Oyabe City in Japan. Parents of the deceased have further executed a Special Power of Attorney on 2.3.2015 in favour of Ms.Ritika Kesarwani to pursue all matters relating to the death of Kazuya Fujita.

Hence the present petition was filed by the petitioner-accused for quashing of the aforesaid FIR and all subsequent proceedings on the basis of settlement(P-5) and by impleading the parents of the deceased through aforesaid Special Power of Attorney.

Vide order dated 28.10.2015 the parties were directed to get their statements recorded regarding genuineness of the compromise.

Now learned Civil Judge (Sr.Division),Rewari vide her report dated 30.11.2015 (taken on record as Mark-A) has reported that the agreement is valid and genuine.

Learned State counsel states that the case is at the stage of prosecution evidence.

Due to an industrial accident the deceased-a co-worker of the petitioner had died while they were repairing a machine. Thus, it is highly debatable as to whether offence under Section 304-A IPC would be made out or not.

Hon'ble Supreme Court in **(2003)4 SCC 675, B.S.Joshi and others v State of Haryana and another** has made it explicitly clear in para 15 of its judgment that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or effect the powers under Section 482 of the Code.

A Full Bench of this Court in **Kulwinder Singh and others v State of Punjab and another, 2007(3)RCR(Criminal) 1052** has held that this Court, in appropriate cases, while exercising powers under Section 482 Cr.P.C., may quash an FIR disclosing the commission of non-compoundable offences. The relevant extract reads as under:-

“The only inevitable conclusion from the above discussion is that there is no statutory bar under the Cr.P.C., which can affect the inherent power of this Court under Section 482. Further, the same cannot be limited to matrimonial cases alone and the Court has the wide power to quash the proceedings even in non-compoundable offences notwithstanding the bar under Section 320 of the Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice.”

Hon'ble Apex Court in another case in **J.T.2008(9) SC 192 Nikhil Merchant v Central Bureau of Investigation and Another** while relying upon its decision in **B.S.Joshi's** case (supra) has also held that in view of the compromise arrived at between the parties, the technicalities should not be allowed to stand in the way in the quashing of criminal proceedings and the continuance of the same after compromise between the parties would be a futile exercise.

Similar views were expressed by Hon'ble the Apex Court in **Madan Mohan Abot v State of Punjab, 2008(4) SCC 582**, the relevant extract of which is as under:-

“We need to emphasise that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilised in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law.”

Keeping in view the above settled legal position and taking into account the fact that both the parties have desired to live in peace and harmony and carry on with their lives without any ill will or rancour by resolving their differences and entering into the aforesaid compromise, it is evident that it is a fit case where there is no impediment in the way of the Court to exercise its inherent powers under Section 482 Cr.P.C., for quashing of the FIR in the interest of justice.

Accordingly, the present petition is allowed and FIR No.332/2014 dated 6.9.2014 under Section 304-A IPC, PS Model Town, Rewari and subsequent proceedings arising therefrom are quashed.

07.12.2015.
joshi

(Jaswant Singh)
Judge