

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

CRM-M-38199 of 2014
Date of decision: 6.4.2015

Makhan

...Petitioner

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Satbir Gill, Advocate for the petitioner.
Mr. Shilesh Gupta, Addl. Advocate General, Punjab.

Rajan Gupta, J.

This is a petition under Section 482 Cr.P.C. seeking quashing of FIR No.203 dated 6.12.2009, registered against the petitioner under Sections 338, 337, 279, 427 and 304-A IPC at Police Station Guruharsahai, District Ferozepur.

An FIR was registered against the petitioner on 6.12.2009 on complaint of Niranjana Singh, respondent No.2. It was alleged that when complainant was coming near a bridge at about 6.00 P.M., a Zen Car driven at high speed struck in the motor cycle of complainant. His brother Balwinder Singh fell down and received serious injuries. He was admitted to Pawan Hospital, Guruharsahai. However, he succumbed to his injuries.

Learned counsel for the petitioner has placed reliance on

judgment reported as *Anil Kumar vs. State of Punjab and another, 2009 (3) R.C.R. (Criminal) 258* and *Gurpreet Singh vs. State of Punjab and another, 2013 (7) R.C.R. (Criminal) 1294* in support of his contention that FIR under section 304-A IPC can be quashed on the basis of compromise.

Learned State counsel has, however, vehemently opposed the plea. According to him, offence under section 304-A IPC is non-compoundable. A compromise cannot be effected on behalf of a dead person. He has relied upon judgment reported as *Varinder Kumar vs. State of Punjab & another, 2012 (4) AICLR 104*.

I find merit in the plea of learned State counsel. In view of judgment in *Varinder Kumar's* case (supra), I feel, no ground for quashing of instant FIR is made out. Relevant para of the said judgment reads as follows:-

“5. Admittedly, the offences under Sections 279 and 304-A IPC are non-compoundable. There is no scope for a Court of law permitting the compounding of such offences merely because the parties have decided to compromise the matter on behalf of a dead person. If the plea taken is accepted then the day is not far away when in a murder case complainant or eye witnesses compromising the matter with the accused will start filing petitions under Section 482 of the Code seeking quashing of the FIR on the basis of compromise. The kin of the victim, that is, respondent No.2 has no right to compound the offences on behalf of the deceased. It is not a case where the inherent power under Section 482 of the Code should be exercised as the quashing of FIR will not prevent the abuse of process of any Court rather it will be abuse of the provision of Section 482 of the Code itself.”

In the judgment of the apex court reported as ***Gian Singh Vs. State of Punjab and Anr. 2013 (2) B.L.J. 289***, it has been held that power to quash criminal proceedings may be exercised keeping in view facts and circumstances of each case. The High Court would have due regard to nature and gravity of crime. Heinous and serious offences cannot be quashed, even though victim or victim's family may have settled the dispute with the offender. Such offences are not private in nature but have impact on society (see para 57). Similar view has been expressed in judgment reported as ***Ashok Sadarangani v. Union of India, (2012) 11 SCC 321*** (paras 25 & 27). Under the circumstances, judgment relied upon by the petitioner in *Anil Kumar* and *Gurpreet Singh's cases (supra)* cannot help the case of the petitioner. On the other hand, judgment in *Varinder Kumar's case (supra)* is fully applicable to facts of the case. The petition is, thus, without any merit and is dismissed.

(RAJAN GUPTA)
JUDGE

6.4.2015
'Rajpal'

Whether to be referred to reporter? Yes / No