

267 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-31517-2017(O&M)
Date of decision: 06.11.2017**

Parveen Kumar @ Pawan Kumar Verma ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. G.S.Sandhu, Advocate
for the petitioner.

Mr. A.S.Gill, Sr. DAG, Punjab.

Ms. Sunita Punia, Advocate
for respondent Nos. 2 and 3.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for quashing of the FIR No.158, dated 26.12.2014 (Anneuxre P-1), under Sections 304-A of IPC, registered at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib, on the basis of compromise / affidavit (Annexures P-2 and P-3).

Vide order dated 29.09.2017, the parties were directed to appear before the trial Court for recording their respective statements with regard to compromise. In pursuance thereof, a report of the trial Court dated 11.10.2017 (forwarded by District and Sessions Judge, Sri. Muktsar Sahib), has been received. As per this report, the complainants, namely, Poonam wife of Ravi Jagga and Prem Kumar s/o Mohan Lal, father of deceased Neha (both in capacity of L.Rs of deceased persons) have appeared before the trial Court and have got their statements recorded that they have compromised the matter with the petitioner-Parveen Kumar @ Pawan Kumar Verma and have no objection, if the FIR in question, is quashed.

Since, this FIR pertains to Section 304-A IPC, it is necessary to

note down certain facts. Petitioner is a contractor and he was constructing a bridge over Abohar Branch near village Mehrajwala in between 13.00 km to 14.00 km crossing the road leading to Sri Muktsar Sahib to Malout. During the construction of the bridge, the Executive Engineer vide letter dated 13.03.2014 (Annexure P-5) has requested the Senior Superintendent of Police, Sri Muktsar Sahib to deploy a person for the purpose of controlling/ diverting the heavy traffic, so that the construction of the bridge is not affected. Similar letter was written to the Deputy Commissioner on 06.05.2014 (Annexure P-6). The petitioner has also written a letter to the Executive Engineer Construction Division, PWD Branch, Sri Muktsar Sahib vide letter dated 23.07.2014 (Annexure P-7) regarding the closure of the traffic and for not allowing the activities on the bridge. Similarly, there are other correspondence with regard to the intimation given to different authorities. The FIR in question was got registered on 26.12.2014 on the statement of complainant-Anmol Luna with the allegation that at about 11.00 O' clock on 25.12.2014, the complainant was going from Sri Muktsar Sahib towards Malout and the car of his brother-in-law's was ahead of him At about 6.15 p.m. when they reached near village Mehrajwala where construction of bridge was going on since long, the car of his brother-in-law along with his niece fell into the canal and in this accident, his brother-in-law Ravi Jagga and niece Neha died. With this allegation, the FIR, under Section 304-A was registered against the petitioner, who is a contractor that while constructing the bridge he has not taken due care which led into said accident.

It is submitted on behalf of the petitioner that Section 304-A IPC is not made out against the petitioner as the petitioner was neither present at the spot nor rash or negligent in any manner and, therefore, there is no *mens rea* on his part to attract Section 304-A IPC as he has not acted in any manner

which has resulted into the death of above named two persons. Counsel for the petitioner has relied upon the judgment of Hon'ble the Supreme Court rendered in **2015 (s) R.C.R. (Criminal) 1008 State of M.P. Vs. Mehtab** and of Bombay High Court **2015 (15) R.C.R. (Criminal) 45 M/s Divis Infratech Builders and Electrical Contractors Vs. State of Maharashtra**, wherein, it has been held that in case of a contractor, while executing a job which was part of his contract, if an accident occurred, the provisions of Section 304-A IPC will not be attracted as the ingredients of Section 304-A IPC i.e. (a) rash or negligent driving Act (b) death of a persons in pursuance to such Act and (c) the *mens rea* to commit a such Act are missing. Similar is situation in present case. The petitioner being contractor was constructing a bridge and was not present at spot and had taken due care to inform the various authorities of Administration to take precaution that traffic is diverted for the purpose of the construction, the accident, in which a car fell into river causing death of two persons, no *mens rea* is proved against him.

Considering the fact that the parties have compromised the matter and the petitioner has compensated the legal heirs of the deceased persons, coupled with the fact that the provision of Section 304-A IPC is not made out in the present case, the FIR No.158, dated 26.12.2014 (Anneuxre P-1), under Sections 304-A of IPC, registered at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib along with all the consequential proceedings, arising therefrom, is ordered to be quashed qua the petitioner.

(ARVIND SINGH SANGWAN)
JUDGE

06.11.2017
Hemlata

Whether speaking/reasoned	Yes / No
Whether reportable	Yes / No