

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

Crl. Revision No.4232 of 2016 (O&M)

Date of Decision: March 21, 2017

Shamsher Singh

.....PETITIONER(s).

VERSUS

State of Punjab

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Chandan Deep Singh, Advocate  
for the petitioner (s).

Mr. Jashanpreet Singh, A.A.G., Punjab.

Mr. Kartik Gupta, Advocate  
for complainant.

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**SURINDER GUPTA, J.**

Petitioner Shamsher Singh was convicted for the offences punishable under Sections 279 and 304-A of Indian Penal Code (for short-IPC) and sentenced as follows:-

| Under Section | Sentence                               | Fine    | In default                                   |
|---------------|----------------------------------------|---------|----------------------------------------------|
| 279 IPC       | To undergo imprisonment for six months | ₹500/-  | To undergo further imprisonment for 5 days.  |
| 304-A IPC     | To undergo imprisonment for two years  | ₹1500/- | To undergo further imprisonment for 1 month. |

Appeal filed by the petitioner was dismissed by learned Sessions Judge, Kapurthala and the sentence as awarded by the trial Court, was maintained.

Learned counsel for the petitioner has argued that the petitioner has since settled the matter with legal heirs of deceased Sarwan Ram, who got killed in the accident that took place on 10.09.2011 and the copy of settlement has been placed on file as Annexure P-1. The petitioner has already undergone more than nine and half months of imprisonment by now. In view of the compromise, he has sought a lenient view regarding quantum of sentence.

In the case of *Baldev Singh Vs. State of Punjab and another 2016(3) Law Herald 2020*, a Division Bench of this Court, while answering a reference has observed that the settlement or compromise in a case under Section 304-A IPC is no ground to seek quashing. While making these observations, reference was made to the observations of Hon'ble Apex Court in case of *State of Punjab Vs. Saurabh Bakshi, 2015(5) SCC 182* and *Dalbir Singh Vs. State of Haryana 2000(2) R.C.R. (Criminal) 816*. The Division Bench also observed in para 18 and 19 as follows:-

“18. In the facts and circumstances of the case it would indeed be paradoxical and incorrect to hold that the offence under Section 304-A is private in nature. Its serious impact on society is not subject to understatement. When a person or persons lose their life/lives due to the rash and negligent act of the accused, the question of *mens rea* or intention in such a situation pales into insignificance. The wrong cannot be termed to be private or personal in nature like offences arising out of matrimony, relating to dowry etc., family disputes or criminal cases having overwhelmingly and predominantly a civil flavour like commercial, financial, mercantile, civil or partnership matters.

19. Another argument addressed vehemently in favour

of the proposition is that the legal heirs get adequate compensation in a given situation and a quietus is afforded to needless litigation, as many a times criminal proceedings are initiated solely with a view to seek compensation. There is a basic flaw in this argument which compels us to reject it. To presume that a human life can be allowed to be shattered away due to the rash and negligent act, may be a mindless act or of false bravado or brazenness and thereafter permit its compounding/settlement on the basis of 'just monetary compensation' or any other consideration amounts to nothing but a complete mockery of justice, totally offensive to civilized thought. The question of compensation under the Motor Vehicles Act is a totally separate issue. There can be no question of bartering of a human life in this manner. While being fully conscious of the ground realities of our society where the victim's family may be in penury and may be beguiled into a compromise due to the harsh realities of life, a stamp of approval over such an activity cannot be afforded by the court.”

The observation of Hon'ble Apex Court and Division Bench of this Court in the above referred cases shows that the Courts are now viewing offence under Section 304-A IPC with alacrity and concern keeping in view its impact on the society as a whole and its ramifications on the immediate collective as well as its repercussion on the victim.

Learned counsel for the petitioner while relying on the observation in case of ***Balwinder Singh Vs. State of Punjab 2016(2) R.C.R. (Criminal) 549***, wherein it was observed that the ends of justice would be met if the substantive sentence of the petitioner is reduced to the period of

sentence already undergone by him, submits that though the petitioner is barred from seeking quashing of FIR in such cases but compromise is a factor which is relevant for consideration to determine the quantum of sentence. In support of his contention, he made reference of the observations of Apex Court in case of ***Puttaswamy Vs. State of Karnataka and another 2009(1) R.C.R. (Criminal) 501(SC)***.

In this case, legal heirs of deceased Sarwan Ram vide affidavit Annexure P-1 have stated that they have entered into compromise with the petitioner and they have no objection in case he is released from imprisonment. Learned counsel appearing for legal heirs of deceased Sarwan Ram has endorsed this compromise.

In view of the observations in cases of ***Puttaswamy Vs. State of Karnataka (supra); Balwinder Singh Vs. State of Punjab(supra); and Inderjit Singh @ Nikka Vs. State of Punjab and others Criminal Misc. No.M-29347 of 2014 decided on 25.02.2016*** and taking into account submissions made by learned counsel for the petitioner, I affirm the conviction of the petitioner for the offences punishable under Sections 279 and 304-A IPC. However, keeping in view the fact that petitioner has faced the trial for the last about six and half years and has undergone sentence of more than 9 months and settlement of dispute with heirs of victim, I find it to be a fit case to take a lenient view regarding quantum of sentence. Sentence awarded to the petitioner for the offence punishable under Section 304-A IPC is reduced from rigorous imprisonment for two years to rigorous imprisonment for one year.

This revision petition is partly accepted with above

modification in the substantive sentence of petitioner for the offence punishable under Section 304-A IPC.

**March 21, 2017**  
*Sachin M.*

**( SURINDER GUPTA )**  
**JUDGE**

***Whether speaking/reasoned:*** ***Yes/No***

***Whether Reportable:*** ***Yes/No***