

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15210-2017 (O&M)

Date of Decision: 18.07.2019

Mohinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Sarju Puri, Advocate, for the petitioner.
Mr. APS Gill, DAG, Punjab
Mr. Jagat Pal Singh Banwait, Advocate,
for respondents no.2 and 3.

Amol Rattan Singh, J. (Oral)

By this petition, the petitioner seeks quashing of FIR No.9 dated 02.02.2012, registered at Police Station Behram, District SBS Nagar, for the commission of offences punishable under Sections 279, 337, 338, 427 of the IPC (and Section 304A added subsequently), on the basis of a compromise entered into (Annexure P-6), after he has been convicted by the trial court for the commission of all the aforesaid offences (except the one punishable under Section 338 of the IPC), and has been sentenced to undergo rigorous imprisonment of 1 year and 6 months in respect of the offence punishable under Section 304A of the IPC, in addition to a fine of Rs.4,000/- having been imposed, in default of which he is to undergo imprisonment for 3 months more.

The compromise is stated to have been arrived at between the petitioner and respondents no.2 to 4, respondent no.4 being the complainant at the instance of whom the FIR was registered, with respondents no.2 and 3

being the parents of the deceased (Subhash Kumar), who is also the nephew of respondent no.4.

It is necessary to note here that respondent no.4 is also stated to have suffered an injury in the incident.

Though the factum of the compromise arrived at is not denied by the learned counsel appearing for the said respondents in terms of the compromise deed that has been annexed as Annexure P-6, however, quashing of the FIR cannot be ordered by this Court where an offence punishable under Section 304A of the IPC is made out, in view of the ratio of the judgment of the Division Bench of this Court in **Baldev Singh vs. State of Punjab and another** 2016 (3) Law Herald 2020, wherein it has been specifically held that simply because the next of kin/the legal heir of the deceased enters into a compromise with the accused/convict, an FIR alleging therein the commission of an offence punishable under Section 304-A IPC should not be quashed, it not being “a private matter” but an offence against society (even though there is no intention to cause the death of the person).

That being so and the judgment of the Division Bench having been passed on a reference made to it on the issue of whether a crime registered under Section 304-A IPC can be quashed on the basis of a compromise arrived at between the offender and the legal heir/representative of the victim/deceased, obviously, this Bench is bound by the ratio of that judgment.

Consequently, in the face of the bar contained in the ratio of the said judgment, this petition cannot be allowed and is therefore dismissed.

However, with an appeal stated to be pending against the judgment of the trial court, filed by the present petitioner, the factum of a compromise having been reached would be considered by the learned appellate court (if eventually it is not acquitting the petitioner), for the purpose of reduction of the quantum of sentence imposed by the trial court.

The interim order staying proceedings before the appellate court is hereby vacated.

(AMOL RATTAN SINGH)
JUDGE

18.07.2019

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Whether reasoned/speaking: Yes

Whether reportable: Yes