

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(115)

CRM No. M-43700 of 2021
Date of Decision : 26.11.2021

Pushpender

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ajay Kripal Singh, Advocate with
Mr. Arun Kumar, Advocate for the petitioner.

Mr. Gaurav Bansal, Assistant Advocate General, Haryana.
(keeping in view advance copy given)

Mr. Mayur Karkra, Advocate for
Mr. Mohit Rathee, Advocate for respondent No. 2.

Harsimran Singh Sethi J. (Oral)

The present petition has been filed for quashing of FIR No. 343 dated 24.10.2020, registered under Section 304-A IPC at Police Station Gadpuri, District Palwal, on the basis of compromise dated 03.09.2021, which has been entered into between the parties, a copy of which has been appended as Annexure P-4.

Learned counsel for the petitioner argues that though, the allegations alleged in the FIR are serious but upon re-consideration of the facts, the parties have settled their dispute and according to the said compromise, the complainant is not pressing the allegations alleged in the

FIR and, therefore, the FIR in question may kindly be quashed on the basis of the said compromise.

Notice of motion.

Mr. Gaurav Bansal, learned Assistant Advocate General, Haryana, who is present in Court, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State and Mr. Mayur Karkra, Advocate for Mr. Mohit Rathee, Advocate, who is also present in Court, accepts notice on behalf of respondent No. 2/complainant.

Learned counsel appearing on behalf of respondent No. 2/complainant supports the petitioner to the effect that parties have already compromised their dispute and he states that the complainant has no objection in case, the present FIR is quashed on the basis of said compromise.

Learned State counsel, on the other hand, raises an objection that as Section 304-A IPC has been invoked in the present FIR and not only this, after the submission of challan, even the charges have been framed against the petitioner under Section 304-A IPC hence, keeping in view the settled principle of law, on Section 304-A IPC, which is a non-compoundable offence, the FIR in question may not be quashed on the basis of compromise and the prayer of the petitioner may kindly be rejected.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is a conceded fact between the parties that in the present case, after the investigation, the challan was presented against the accused and

even the charges have been framed against the accused under Section 304-A IPC. Not only this, learned counsel for the petitioner as well as complainant concedes that the offence under Section 304-A IPC is a non-compoundable offence. That being so, once the charges have been framed and the said framing of the charges has already been accepted by the petitioner, who is the accused, the FIR in question cannot be quashed being involving the Sections of IPC, which are non-compoundable.

A Division Bench of this Court while deciding **CRM No. M-40769 of 2014** titled as **Baldev Singh Vs. State of Punjab and another**, decided on 02.06.2016, after considering the settled law on the aspect has held that an FIR under Section 304-A IPC being non-compoundable, cannot be quashed even on the basis of the compromise. The relevant paragraphs of the said judgment are as under :-

“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.

20. *To say that Courts should not hesitate to intervene in favour of the accused in such cases is indeed a dangerous proposition with a potential to provide an impetus to a proclivity on the part of the drivers to continue with their rash and negligent act buoyed by the thought that they would get away with the crime by affording sufficient compensation to the victim's legal representatives. Once it has been authoritatively held by the Supreme Court that even grant of compensation under Section 357 (3) Cr. P.C. is not to be regarded as a mitigating circumstance to reduce the sentence imposed and neither can it be a substitute for an adequate sentence in all cases, it cannot be held that in cases where the matter is settled with the legal heirs of the deceased by giving adequate compensation, the proceedings should be quashed.*

21. *Likewise, to draw an analogy that in cases involving the offence under Section 307 which are of heinous nature, it has*

been opined by the courts that the factum of a settlement or compromise between the parties can be a guiding factor, is not justified. In the case under Section 304-A the victim is obviously not present to settle the matter. To permit a legal representative or legal heir to compromise or settle the matter is indeed an invitation to a dangerous trend and cannot be permitted. To quash the proceedings under Section 304-A solely on the basis of a settlement or compromise arrived at between the accused and the legal representatives is not permissible and militates against all canons of justice. Inclusion of the legal representatives in the definition of victim does not clothe him/them to enter into such a settlement, though the legal representative, undoubtedly has the authority to file an appeal or receive compensation.”

Learned counsel for the petitioner has not been able to rebut the said proposition of law. That being so, the prayer of the petitioner in the present petition, cannot be accepted in view of the settled principle of law.

The present petition is accordingly dismissed.

It is made clear that this Court is not observing anything on the merits of the case while passing the present order.

November 26, 2021
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

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