

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

108

**CRM-M-44182-2020
Decided on : 05.01.2021**

Janki @ Janki Devi

... Petitioner(s)

Versus

Union Territory, Chandigarh and another

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. Kamal Jit Rana, Advocate
for the petitioner(s).

Mr. Kuldip Tiwari, Addl. PP UT, Chandigarh.

MANJARI NEHRU KAUL, J. (Oral)

Instant petition has been filed under Section 482 Cr.P.C., for quashing of FIR No.315, dated 25.10.2018, under Sections 304-B, 34 IPC, registered at Police Station Industrial Area, Chandigarh, on the basis of compromise deed dated 16th March, 2020 (Annexure P-2), as subsequent to the registration of the FIR in question and during the course of the trial, the matter has been compromised between the complainant and the petitioner (accused).

Learned counsel for the petitioner has invited the attention of this Court to the compromise-deed dated 16th March, 2020 (Annexure P-2), stated to have been effected between the complainant and the accused/petitioner, wherein, it has been stated that with the intervention of the respectables, the matter has been amicably settled between the First Party (complainant) and the Second Party (accused/petitioner) and therefore, the former does not wish to continue the proceedings against the latter for the better future of the minor daughter of the deceased and the

accused Amit Kumar Yadav @ Chussa, as there is no one to look after her.

Hence, it has been vehemently urged and prayed by the learned counsel for the petitioner that the FIR, which stands registered against the petitioner for offences under Sections 304-B, 34 IPC, be quashed.

I have heard learned counsel for the petitioner and also gone through the material on record.

Undoubtedly Section 320 Cr.P.C. provides for compounding of offences, however, one cannot lose sight of the fact that the legislature in its wisdom categorized the offences into compoundable and non-compoundable, after taking into consideration the gravity of each of the offences. A perusal of Section 320(1) and Section 320(2) of Cr.P.C., reveals that some of the offences can indeed be compounded, however, subject to certain conditions. Firstly, compounding of offences covered under both the aforementioned sub-clauses of Section 320 Cr.P.C. can be done only at the instance of either the complainant or the injured or the victim/aggrieved person. Secondly, compounding of offences detailed in Section 320(2) Cr.P.C. can be done only with the leave of the Court. The question which thus arises is as to who could be termed “a victim/aggrieved person” in a given case. It would, therefore, be apposite to reproduce Section 2(wa) of Cr.P.C., wherein, the term 'victim' has been defined, as under:-

“2(wa). “victim” means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression "victim" includes his or her guardian or legal heir.”

A reading of the aforementioned, leaves no manner of doubt

that in offences particularly affecting the human body (e.g. under Sections 302/304/304A/304B IPC) and even under Section 396 IPC, it is the deceased, who would fall within the meaning of 'victim' as it is, he/she, who has suffered the injury and subsequent loss of life on account of the act or omission for which the accused has been charged with. No doubt, the legal heirs of the deceased would also fall within the definition of 'victim', but that would be to a limited extent for the purpose of maintaining an appeal within the first part of Section 2(wa) of Cr.P.C. It thus goes without saying that any compromise between the accused and complainant to the exclusion of the victim, who in the instant case would be the deceased and deceased alone, would not only be void but also against the mandate of law.

In non-compoundable offences since the nature of the offence(s) is serious, the accused cannot be allowed to go unreprimanded merely because the parties on either side have amicably resolved their dispute(s), howsoever genuine a case for compounding the offence may have been made out by them. Moreover and most importantly in non-compoundable offences both the complainant i.e. private party and the society at large are affected. Hence, if a compromise is supposedly arrived at between the accused and the complainant, it cannot be given effect to, to the exclusion of the State which represents the investigating agency during the trial and which has, in fact, registered the FIR albeit on the complaint made by the complainant. The said categorization of the offences was done by the legislature with a definite intent, which should not be allowed to be breached, except, of course, in cases having an overwhelmingly civil character like disputes arising out of commercial transactions, matrimonial disputes or family disputes, where the parties have resolved the entire

dispute(s) amongst themselves as has also been held by the Apex Court in **Criminal Appeal No. 349 of 2019**, titled as, “**The State of Madhya Pradesh Vs. Laxmi Narayan and others**”, decided on **05th March, 2019**.

Coming to the case in hand, the petitioner and the co-accused have been charged with, for the offences under Sections 304-B, 34 IPC, which without a doubt falls within the category of heinous crime, which cannot be treated to be an offence, which is private in nature, rather, it is an offence against the society. In the case in hand, without a doubt, the victim would be the deceased, as it is she, who has suffered at the hands of the accused party. Thus, in this scenario the compromise supposedly effected between the family of the deceased and the accused/petitioner would not come to the rescue or aid of the petitioner. It also needs to be emphasized that maintenance of law is the prime duty of the State. In violation of the statutory provisions, the Courts should be most reluctant to quash an FIR on grounds of compromise merely because the parties have chosen to resolve their dispute.

On an evaluation of the facts and circumstances of the instant case, this Court is not inclined to exercise its inherent powers conferred under Section 482 Cr.P.C. to quash the FIR in question. Petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

January 05, 2021

J.Ram

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