

Satwant Singh

.....Petitioner

Vs.

State of Punjab and another

....Respondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Ms. Anju Sharma, Advocate,
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

AMOL RATTAN SINGH, J. (Oral)

By this petition, the petitioner seeks quashing of FIR No.0001, dated 01.01.2021, registered at Police Station City Malerkotla, alleging therein the commission of offences punishable under Sections 279/304-A/427/337 the IPC, as also all other subsequent proceedings arising therefrom, on the basis of a compromise (copy Annexure P-2), arrived at between the petitioner and respondent no.2.

As recorded in the order dated September 20, 2021, the following judgments have been relied upon by learned counsel for the petitioner:-

- 1) State of Maharashtra through CBI v. Vikram Anantrai Doshi and others, 2014(15) SCC 29;
- 2) Narinder Singh and others v. State of Punjab and another 2014(2) RCR (Criminal) 482; and
- 3) Babu Khan and another v. State and others (Law Finder Doc Id #1613836).

Today, learned counsel for the petitioner submits that she does not have the aforesaid judgments but submits that with a Division Bench of this court even in **Baldev Singh vs. State of Punjab and another**, 2016 (3) Law Herald 2020, (referred to in the order of this court dated 18.08.2021), having

held that an FIR alleging therein the commission of an offence punishable under Section 304-A of the IPC cannot be quashed solely on the basis of a compromise but may be quashed looking at other circumstances also, therefore, with the complainant, i.e. the father of the deceased, having categorically stated that he had found that it was not the petitioner who was involved in the death of the deceased, the FIR deserves to be quashed.

Having considered the matter, firstly, what is to be observed by this court is that in the FIR the number of the truck as is stated to have hit the motorcycle driven by the complainant (carrying him, his wife and daughter), is shown to be PB-13U-0485, with the reply of the DSP, Sub Division Malerkotla, stating that in fact the said truck was taken into custody from the spot itself, upon the complaint having been received and the FIR registered, though the driver thereof had run away from the spot; and with the truck being registered in the name of the petitioners' father.

Learned counsel for the petitioner while pointing to the compromise deed (Annexure P-2), submits that in fact it is stated therein that the aforesaid truck was not involved in the accident as has been determined from people who gathered at the spot.

(It is to be noticed that it has not been argued that the said truck had been sold to some other person).

Though obviously this court is fully aware of the fact that if material witnesses including the complainant and his family turn hostile in any trial to be conducted, the chances of the accused being found guilty may be “lesser”, yet, with the police having recovered the truck from the spot and that

being the number of the truck given in the FIR itself by the complainant (husband of the deceased), whether or not the petitioner was eventually guilty would need to be seen by the trial court on the basis of evidence led before it and consequently, as regards quashing of the FIR on the basis of the compromise reached between the parties, which otherwise is not denied by learned counsel appearing for respondent no.2, the ratio of the judgment of the Division Bench of this court in **Baldev Singhs'** case (supra), would apply in my opinion.

It was held therein as follows:-

“13. Bearing in mind the galloping trend in road accidents in India and the devastating consequences visiting the victims and their families, criminal courts cannot treat the nature of the offence under Section 304-A IPC as attracting the benevolent provisions of Section 4 of the Probation of Offenders Act. While considering the quantum of sentence to be imposed for the offence of causing death by rash or negligent driving of automobiles, 6 (2000) 5 SCC 821 Page 13 one of the prime considerations should be deterrence. A professional driver pedals the accelerator of the automobile almost throughout his working hours. He must constantly inform himself that he cannot afford to have a single moment of laxity or inattentiveness when his leg is on the pedal of a vehicle in locomotion. He cannot and should not take a chance thinking that a rash driving need not necessarily cause any accident; or even if any accident occurs it need not necessarily result in the death of any human being; or even if such death ensues he might not be convicted of the offence; and lastly, that even if he is convicted he would be dealt with leniently by the court. He must always keep in his mind the fear psyche that if he is convicted of the offence for causing

death of a human being due to his callous driving of the vehicle he cannot escape from a jail sentence. This is the role which the courts can 11 of 14 play, particularly at the level of trial courts, for lessening the high rate of motor accidents due to callous driving of automobiles."

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.

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 12 of 14 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.

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However, it is trite to mention that the power of the High Court under Section 482 Cr. P.C. can nevertheless be exercised in appropriate matters where it is felt that a prima facie case is not made out in consonance with the settled principles of law. There can indeed be no fetter on this power to act for securing the ends of justice or to prevent the abuse of process of law. However this observation for a moment is not to be construed as taking the possibility of a conviction being bleak due to settlement, to be a relevant factor for quashing the FIR under Section 304-A IPC. Reference is thus answered in the negative as there can be no quashing of an offence registered under Section 304-A and subsequent proceedings, solely on the basis of a compromise arrived at between the legal heirs/representatives of the victim (deceased) and the accused.”

Consequently, without making any comment on the actual merits of the case, this petition is dismissed, with the trial to proceed on its own merits.

March 15, 2022

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**(AMOL RATTAN SINGH)
JUDGE**

Whether speaking/reasoned : YES
Whether Reportable : YES