

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-45935-2022
Date of decision : 30.09.2022

Rajesh Kumar
... Petitioner

Versus

State of Punjab and others
... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: None for the petitioner.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. for quashing of the FIR no.03 dated 03.01.2015 registered under Sections 304-A, 379, 337, 338 IPC at Police Station Sadar Bathinda, District Bathinda and order of conviction dated 09.07.2018 passed by the Judicial Magistrate Ist Class, Bathinda in case titled as “State Vs. Rajesh Kumar @ Raju” and all the subsequent proceedings arising out of the above said FIR, on the basis of compromise.

Perusal of the judgment would show that the present petitioner Rajesh Kumar has been convicted as under:-

<i>Name of accused</i>	<i>Offence U/S</i>	<i>Sentence</i>
Rajesh Kumar @ Raju	304 A IPC	Rigorous imprisonment for a period of two years and to pay a fine of Rs.1000/- and in default thereof, to further undergo rigorous imprisonment for a period of 15 days.
Rajesh Kumar @ Raju	279 IPC	Rigorous imprisonment for a period of six months.
Rajesh Kumar @ Raju	337 IPC	Rigorous imprisonment for a period of six months.
Rajesh Kumar @ Raju	338 IPC	Rigorous imprisonment for a period of two years and to pay a fine of Rs.1000/- and in default thereof, to further undergo rigorous imprisonment for a period of 15 days.

All the sentences shall run concurrently.”

A division Bench of this Court in ***Baldev Singh vs. State of Punjab & Anr.*** reported as ***2016(3) Law Herald 2020*** had observed as under:-

*“This petition has been filed for quashing of FIR No. 173 dated 11.12.2013 under Sections 279, 304-A, 427 IPC registered at Police Station Sadar Sangrur as well as subsequent proceedings on the basis of compromise/settlement arrived at between the accused petitioner with respondent No.2 who is brother of the deceased-Balbir Singh. When the learned Single Judge was seized of the matter, it was felt with reference to the judgment of the Hon'ble Supreme Court in ***Gian Singh v. State of Punjab and another*** 2012 (4) R.C.R. (Criminal) 543 that the offence under Section 304-A IPC neither falls in the category of cases which cannot be quashed on the basis of settlement nor the ones which can be so allowed. The question formulated for consideration of a larger Bench was whether the crime registered under Section 304-A IPC can be quashed on the basis of compromise arrived at by the legal heir/legal representative of the victim/deceased with the offender.*

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15. *The offence under Section 304-A IPC presents a situation where the victim has lost his life in an accident. The legal representatives of the deceased may enter into a compromise with the accused for considerations best known to them, but to say that an offence under Section 304-A is private in nature is wholly incorrect. It is an offence which impacts society as a whole with its ripples casting their net far and wide, permeating to the very core.*

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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.”

A perusal of the same would show that in a case where the FIR is registered under Section 304-A IPC amongst other sections, the FIR cannot be quashed in a petition under Section 482 Cr.P.C. on the basis of compromise.

Keeping in view the above said facts as well as the ratio of law laid down in the above said judgment, the present petition is dismissed.

(VIKAS BAHL)
JUDGE

September 30, 2022
Davinder Kumar

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