

CRM-M-51146-2021
Reserved on : 23.02.2022
Pronounced on: March 17, 2022

Lucky Upadhyay

.....Petitioner(s)

Vs.

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Mohit Rathee, Advocate for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

ANOOP CHITKARA J.

FIR No.	Dated	Police Station	Sections
515	02.09.2021	Kundli, District Sonipat	279, 337 (304-A added later on)

The petitioner(s), arraigned as accused in the above captioned FIR, has come up before this Court under Section 482 CrPC for quashing of the FIR and all consequential proceedings based on the compromise with the victim(s).

2. The gist of the allegations against the petitioner(s) is that the complainant (respondent No.2) made a statement before the police and based on such statement, the police registered the FIR captioned above. Needless to mention all the details and it is sufficient to say that the parties have entered into a compromise.
3. During the pendency of the petition, the accused and the victim’s relatives have compromised the matter, and its copy is annexed with this petition as Annexure P-2. After that, the petitioner(s)came up before this Court to quash the FIR, and in the quashing petition, his sister has been impleaded as respondent(s).

ANALYSIS & REASONING:

4. The relevant portions of the FIR (Annexure P-1), read as follows:
- “Sir, P.S. Incharge, P.S. Kundli, Sir, it is requested that I am daughter of Shri Narendra Kumar resident of S-1/23, Vihar, phase 1 Delhi-110086. That on dated 29/08/2021 at time around 2:00 PM that my sister Akanksha and my friend Lucky resident of SEC-24 Rohini who was driving his car bearing No DL-9COS-5014 by*

himself. After having food at Sukhdev Dhaba at around 5.30 PM we left from there. That at around 6:40 PM we went ahead of KGP TOLL at that time Lucky was driving his car recklessly at high speed. I was sitting on the front seat at that time. My sister Akar ksha was sitting on the back seat. I had affixed my seat belt, that I told Lucky many times to drive slowly, he did not adhere to my request and that Lucky kept driving the car in a careless manner. That when we had reached just near 2.5 KM from TOLL, Lucky kept driving the car at high speed and hit the iron grill on the side of the road, that in this accident my younger sister Akanksha got a lot of injuries on her left hand and head. Then we arranged ambulance and took Akanksha to FIMS Hospital Sonapat. I was more anxious at that time. Then we took Akanksha by ambulance to SEC-22 Shree Agrasan International. Hospital Delhi. That my sister's condition is more critica. Due to which I was very anxious. I was not in my full senses. Today, on 2/9/2021, I am in my full senses. I have presented you my written complaint at the police station and M.L.R. No. SK/SNP/29/08/2021/3 qua Akanksha has been presented. Action should be taken SD POOJA."

5. The parties compromised the matter vide compromise deed dated 15-11-2021 (Annexure P-2). Paragraphs 2 & 3 of the compromise are in the following terms:

"2. That on dated 29.08.2021 at about 06:40 PM, Pooja, his sister Akansha and one of her friend namely Lucky, who was driving the car, were returning towards their home after taking raeal at Sukhdev Dhaba, when they crossed the KGP toll, there was some dirty water on the road, when we were crossing the road, the tyre of the car went into a ditch, which was not been seen due to the water and our car got imbalanced and struck with iron grills. In this accident, all of us was got injured and sustained multiple grievous injuries and my sister Akansha got some severe and grievous injury on her left hand and head. Despite the multiple grievous injuries Lucky survived but my sister could not be survived and died on 18.09.2021 during her treatment in Shree Aggarsain International Hospital, Rohini.

3. That on 02.09.2021, an FIR NO.515 U/s 279/304-A/337 IPC, P.S.Kundli was registered against the Lucky Upadhyay. In this FIR statement was made by me only due to aggression and in the pressure of Police officials."

6. A reading of compromise gives an impression that the matter for quashing is on the merits of evidence, which led to compromise. However, a perusal of the remaining paragraphs of the compromise and the petition filed herein, reveal that the parties seek quashing on compromise, which is legally impermissible.

7. In Nallari Sudha Rani vs. The State of Telangana and others in SLP (Crl.) Nos.2967-2968 of 2019, the Supreme Court holds as under:-

..."After hearing learned counsel for the parties, we are the considered opinion that the High Court has of committed a manifest error in allowing the application filed by the private parties and thereby permitting them to compound the offence in question. The private respondent Nos. 2 to 4 had been named as accused in connection with offence punishable under Section 306 of Indian Penal Code. We fail to understand as to how the High Court could have permitted the private parties to compound the said offence, which is a non-compoundable offence.

We are appalled to notice that even the public prosecutor appearing for the State before the High Court, did not oppose that prayer. We say no more. Accordingly, we set aside the impugned order and direct that criminal petition No. 12089 of 2018 stands restored to the file of the High Court to its

original number for being proceeded afresh on its own merits and in accordance with law."

8. The contents of compromise deed and its objectives point towards its rejection, in the light of the Judicial precedents mentioned above.
9. Although this court has rejected the compromise; however, the fact remains that the interested parties had compromised the matter. As such, this court requests Id. trial court to expedite the trial. Parties to bring this request to the notice of the concerned Magistrate.

Petition dismissed in the terms mentioned above. All pending applications, if any stand disposed.

(ANOOP CHITKARA)
JUDGE

Mar 17, 2022
anju rani

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