

115 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16541-2023
Decided on : 10.04.2023

Rajesh Bhasin and another Petitioners
Versus

State of Haryana and another Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Anmol, Advocate for
Mr. Shubham Jain, Advocate
for the petitioners.

Manjari Nehru Kaul, J.(Oral)

The petitioners are seeking quashing of FIR No.128 dated 25.04.2019 under Sections 337 and 304-A IPC registered at Police Station Pinjore District Panchkula and all other subsequent proceedings arising therefrom on the basis of a compromise dated 25.08.2022 (Annexure P-2) arrived at between them and the complainant-respondent No.2.

Learned counsel for the petitioners submits that subsequent to the lodging of the FIR in question, with the intervention of respectables, the parties had amicably resolved their dispute and decided to put to rest the criminal case pending between them. Hence, the continuation of criminal proceedings would be a futile exercise.

I have heard learned counsel for the petitioner and perused the relevant material on record.

No doubt, in cases where the offences are private in nature and the parties have amicably settled their dispute, the Courts should not hesitate to quash an FIR. However, the powers of this Court under Section 482 Cr.P.C. though wide, are certainly not unbridled and have to be exercised sparingly, with utmost restraint. In case of offences, which are non compoundable in nature, quashing of an FIR on the basis of compromise can be permitted by this Court by invoking powers under Section 482 Cr.P.C., **only** if both the accused as well as the victim are parties to the settlement arrived at.

This Court while dealing with an identical issue in **CRM-M-31007-2019** titled as ***Sharif Khan vs. State of Haryana & others***, wherein quashing of FIR under Sections 304-A, 420 IPC and Sections 15(2), 15(6) of the Indian Medical Council Act, 1956 had been sought, on the basis of a compromise held as under:

“The question which thus arises is as to who could be termed “a victim/aggrieved person” in a given case. It would be thus, 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 and 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.”

Coming to the case in hand, the petitioners have been charged, for offences under Sections 337 and 304-A IPC for being negligent in attending to the deceased child. As per the allegations levelled in the FIR, the petitioners did not render any medical assistance to the deceased child qua the injuries suffered by him, nor were the heirs of the deceased informed. In the instant case, a person lost his life due to the negligent act of the petitioners and without doubt, the victim would be the deceased, as it is he, who suffered at the hands of the accused party. Thus, in the above scenario the compromise effected between the family of the deceased and the accused/petitioners would not come to the rescue or aid of the petitioners. It 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. If the courts start giving effect to

compromise for offences like the one in hand and start quashing FIRs, it would be contrary to the statutory provisions of law.

Still further, in **Baldev Singh vs. State of Punjab 2016(164) AIC 307** a Division Bench of this Court has held 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 304A 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.

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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 304A 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 304A 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.”

This Court would, thus, not be inclined to quash the FIR in question and consequent proceedings emanating therefrom, on the basis of a compromise effected between the petitioners-accused and the complainant i.e. grandfather of the deceased.

Accordingly, the instant petition stands dismissed in limine.

(MANJARI NEHRU KAUL)
JUDGE

10.04.2023

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Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No