

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

CRM-M-58719-2022

Date of Decision: 23.03.2023

BALJINDER SINGH

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Anureet S. Sidhu, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. A.G., Punjab.

HARSH BUNGER, J.

Petitioner has filed this petition under section 482 of the Code of Criminal Procedure (in short "Cr.P.C.") seeking quashing of FIR No. 216 dated 26.08.2019 (Annexure P-1) registered under Sections 279 and 304-A Indian Penal Code (in short "IPC"), at Police Station Civil Lines, Patiala, District Patiala and all consequential proceedings arising therefrom on the basis of compromise dated 06.10.2020 (Annexure P-2).

2. Briefly, the above-said case FIR No. 216 was registered on the complaint of Harjit Singh son of Late Sh. Harbans Singh (Respondent no.2) who stated that on 20.08.2019 at around 8:30 PM, while he was going on his cycle alongside railway line from Fatak (crossing) No. 22 Patiala towards Railway Fatak (crossing) No. 23 Patiala then Ashok Kumar (who is stated to be known to the complainant) was going ahead on him on his cycle with milk. When Ashok Kumar reached the Pipal tree near T-point, Model Town Patiala then two boys sitting on one motorcycle bearing No. PB-11BP-7706 (Make Splendor) being driven at great speed and with

negligence came from the front side and after bringing the motorcycle on the wrong side, hit straight into the cycle of Ashok Kumar, whereupon Ashok Kumar alongwith cycle fell on the road and suffered injuries on his head and other parts of the body. While the complainant was taking care of Ashok Kumar, both the motorcycle borne boys ran away from the spot alongwith their motorcycle. The complainant with the help of passer-byes is stated to have admitted Ashok Kumar at Amar Hospital for treatment, where Ashok Kumar expired. The motorcycle bearing No. PB-11BP-7706 (Make 'Splendor') was stated to be driven with negligence and great speed by Baljinder Singh (petitioner) son of Bhupinder Singh. Accordingly, the above-said case FIR was registered.

3. Learned counsel for the petitioner submits that at the time of accident, the age of the petitioner was only 16 years and now the parties have compromised the matter with respondent No. 2-complainant (Harjit Singh S/o Harbans Singh) and Suman Kumari wife of Ashok Kumar (Respondent no. 3) and now none of the parties has any grievance. Accordingly, it is prayed that the petition may be accepted and FIR No. 216 dated 26.08.2019 (Annexure P-1) registered under Section 279 and 304-A IPC at Police Station Civil Lines, Patiala, District Patiala and all consequential proceedings arising therefrom may be quashed on the basis of compromise dated 06.10.2020 (Annexure P-2).

4. Per contra, Learned State counsel has opposed the prayer of the petitioner for quashing of FIR on the basis of compromise on account of seriousness and gravity of offence by submitting that one life has been lost due to rash and negligent driving of petitioner, accordingly, dismissal of the petition is prayed for.

5. I have heard learned counsel for the respective parties and perused the paper-book with their able assistance.

6. A perusal of the paper-book reveals that the present petition is the second petition filed by petitioner seeking quashing of case FIR No. 216 dated 26.08.2019 (Annexure P-1) registered under Sections 279 and 304-A of the IPC, at Police Station Civil Lines, Patiala, District Patiala and all consequential proceedings arising therefrom on the basis of compromise dated 06.10.2020 (Annexure P-2). The earlier petition (***CRM-M-36550 of 2020***) is stated to have been dismissed as withdrawn vide order dated ***09.11.2020*** (Annexure P-5).

7. Be that as it may, in the case of ***Baldev Singh v. State of Punjab, 2016(3) Law Herald 2020***; a similar question whether the crime registered under Section 304A I.P.C. can be quashed on the basis of compromise arrived at by the legal heir/legal representative of the victim/deceased with the offender; was considered by a Division Bench of this Court and it was 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.

19. 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 civilised 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 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.

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.

22. 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 304A I.P.C. Reference is thus answered in the negative as there can be no quashing of an offence registered under Section 304A and subsequent proceedings, solely on the basis of a compromise arrived at between the legal

heirs/representatives of the victim (deceased) and the accused...”

8. A perusal of the above quoted judgment rendered in **Baldev Singh’s** case (supra) would manifest that 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.

9. In view of the aforesaid pronouncement in **Baldev Singh’s** case (supra), the instant petition filed by petitioner under Section 482 of the Code of Criminal Procedure (in short “Cr.P.C.”) seeking quashing of FIR No. 216 dated 26.08.2019 (Annexure P-1) registered under Sections 279 and 304-A IPC, at Police Station Civil Lines, Patiala, District Patiala and all consequential proceedings arising therefrom solely on the basis of compromise dated 06.10.2020 (Annexure P-2), is dismissed.

10. All pending applications (if any), shall stand closed.

March 23, 2023

gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No