

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36066-2018

Narinder Singh

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

Reserved On.: 06.03.2024

Pronounced On: 11.03.2024

CORAM: - HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. S.S. Grewal, Advocate
for the petitioner.

Mr. Madhur Sharma, AAG, Punjab.

Mr. Ajit Singh, Advocate for
Mr. L.S. Latheri, Advocate for
respondent Nos.2 to 5.

DEEPAK GUPTA, J.

In a criminal case arising out of FIR No.146 dated 13.09.2013 registered at Police Station Dhariwal, District Gurdaspur, petitioner Narinder Singh was convicted by the Court of learned Chief Judicial Magistrate, Gurdaspur vide judgment dated 14.02.2018 under Sections 304-A, 427 of the IPC and was sentenced to undergo rigorous imprisonment for a period of 02 years and to pay a fine of ₹5,000/- with default sentence of 15 days for committing the said offence under Section 304-A, 427 of the IPC.

2. The FIR in question had been recorded on the complaint of Jaspal Singh (respondent No.2) regarding a motor vehicle accident, which had taken place between a school bus and a car. The occupant of the car Ramesh had died in the accident. Petitioner Narinder Singh was the bus driver and it had been

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alleged that accident had occurred on account of his rash and negligent driving. Respondent Nos.3 to 6 of the present petition are the legal heirs of deceased Ramesh.

3. By way of the present petition filed under Section 482 Cr.P.C., petitioner prays for quashing of the FIR (Annexure P-1) and to set aside the judgment dated 14.02.2018 (Annexure P-2), whereby petitioner was convicted and sentenced along with all the subsequent proceedings, on account of compromise having been effected between the parties vide compromise deed dated 02.08.2018. Alternative prayer made by the petitioner is to direct the Appellate Court to permit the parties to compound the offence and in the alternative, to take into consideration the factum of compromise while adjudicating upon the quantum of sentence.

4. Though, learned counsel appearing for the private respondents has raised no objection to allow this petition and to quash the FIR and the consequent conviction of the petitioner, in view of the compromise but the petition is strongly opposed by learned State counsel by submitting that FIR cannot be quashed in a case involving Section 304-A IPC. Learned State counsel has referred to *CRM-M-50863-2022 titled as "Ajay Maan v. State of Haryana and another"* decided by this Court on 18.01.2024 after relying upon a Division Bench judgment of this Court rendered in *"Baldev Singh v. State of Punjab and another"*, 2016 (3) Law Herald 2020, in order to contend that FIR under Section 304-A of the IPC based on compromise cannot be quashed.

5. In reply to the aforesaid statement, learned counsel for the petitioner relies upon *"Jaspriya Bhasin v. State (NCT of Delhi)"*, (Delhi) 2022(4) TAC 97; and *"Sunil Malhotra and another v. The State NCT of Delhi*

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and another” decided on 22.11.2023, in which Delhi High Court had allowed quashing of the FIR under Section 304-A of the IPC.

6. I have considered submissions of both the sides and have perused the record.

7. In *Ajay Maan’s case (supra)*, similar prayer had been made so as to quash an FIR under Sections 279 & 304-A of the IPC and the subsequent proceedings arising therefrom on the basis of compromise. Dismissing the petition, this Court observed as under:-

“9. Section 304A IPC providing punishment for causing death due to rash and negligent act, cannot be considered to be dispute between the private parties. Said offence affects the society at large. A Division Bench of this Court in *Baldev Singh Vs. State of Punjab and another, 2016(3) Law Herald 2020*, observed that it would be 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. Hon’ble Division Bench held that quashing the proceedings under Section 304A IPC solely on the basis of settlement or compromise arrived at between the accused and the legal representatives is not permissible, as it militates against all canons of justice. Hon’ble Division Bench further held that 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.

10. It will be apt to reproduce the observations as made by Hon’ble Division Bench of this Court in this regard, which reads as under:-

“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 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.

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.

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.

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.”

11. In view of the aforesaid decision by a Division Bench of this Court, it is held that no advantage can be given to the petitioner of the single Bench authorities rendered by this Court in the case of **Arjun Kumar @ Arun Kumar (Supra)** or by the Delhi High Court in **Ashok Kumar (Supra)**, where FIR under Section 304A IPC on the basis of compromise, was allowed to be quashed.”

8. The above said authority is squarely applicable to the facts of the present case. Rather, it is important to notice that in the present case, even the conviction of the petitioner has already been recorded under Section 304-A of the IPC after holding trial by learned Chief Judicial Magistrate, though appeal is stated to be pending.

9. As far as **Jaspriya Bhasin's (supra)** case is concerned, in that case, it was found by Delhi High Court that none of the witnesses had stated that the offending car had been driven in rash and negligent manner. The circumstances surrounding the recording of statements of alleged eye-witnesses were found to be suspicious and it was in these circumstances that quashing of the FIR under Sections 279 & 304-A of the IPC based on compromise was allowed.

10. In **Sunil Malhotra's case (supra)**, a person had died having fallen unconscious after suffering an electric shock and it was found by the Court that

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prosecution had failed to establish that there was a wanton disregard to the consequences of an act or omission on the part of the accused- petitioner, which had resulted in the accident. After observing so, the quashing based on compromise was allowed.

11. Both the above cited authorities are clearly distinguishable on facts of the present case and as such, no advantage thereof can be given to the petitioner.

12. Having regard to the legal position explained by this Court in *Ajay Maan's case (supra)*, after referring to *Baldev Singh's case (supra)* of Division Bench of this Court, it is held that quashing in the present case based on the compromise cannot be allowed. As such, the main prayer made by the petitioner so as to quash the FIR and the consequent conviction, is hereby rejected.

13. As far as the alternative prayer is concerned, the concerned Appellate Court will be at liberty to take into consideration the compromise having been effected between the parties, while adjudicating the quantum of sentence in the pending appeal, in case the conviction is upheld.

Disposed of, accordingly.

(DEEPAK GUPTA)
JUDGE

March 11, 2024

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No