

124

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

**CRM-M-27296 of 2023
Date of Decision:-28.02.2024**

JASKIRAT AND OTHERS

... Petitioners

Versus

STATE OF HARYANA AND OTHERS

... Respondents

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Devender Kumar, Advocate
for the petitioners.

Mr. Surender Singh, AAG, Haryana.

SANJIV BERRY, J.(ORAL)

By way of the present petition, petitioners have sought quashing of FIR No. 192 dated 04.05.2023 under Section 304-A IPC, registered at Police Station Gadpuri, District Palwal (Annexure P-1) and all subsequent proceedings arising out therefrom on the basis of compromise dated 20.05.2023 (Annexure P-2) effected between the parties.

2. Brief facts leading to the present case are that on 13.04.2023 brother of the complainant namely Kamal while working got electrocuted. He was taken to the Civil Hospital Nalhar for treatment, while going to the hospital Kamal told his brother that the electricity wires of company were too old which were broken from several places and in this regard he had informed the petitioners and also that he had told the petitioners to provide lightening gloves, shoes etc. For safety but they did not bother and during

treatment on 03.05.2023 Kamal succumbed to the injuries. Hence, present FIR was registered.

3. It is *inter alia* contended by learned counsel for the petitioners that the petitioners with the intervention of the respectables have decided to end all the litigation and live peacefully and for that matter have settled the dispute amicably vide compromise deed dated 20.05.2023 (Annexure P-2) wherein it is stated that the complainant has no objection, if the FIR in question is cancelled/quashed. In support of his contention, learned counsel for the petitioners has referred to the judgment passed by Full Bench of this Court in ***Kulwinder Singh vs. State of Punjab 2007 (3) Law Herald (P&H) 2225***, and prays for quashing of the FIR and all subsequent proceedings arising therefrom.

4. Per contra, learned State counsel has has opposed the petition by arguing that the FIR has been registered under Section 304-A IPC. He submits that the offences under Section 304-A IPC pertains to the offences against the society at large and the victim due to the act and conduct on the part of the offender is not in this world, so claiming compromise by paying compensation to the legal heirs of the victims is not permissible. In this regard he has cited judgment of Division Bench of this Court in ***Baldev Singh vs. State of Punjab 2016 (164) AIC 307***. He submits that the FIR in question cannot be quashed on the basis of financial settlement with the legal heirs of the deceased.

5. After considering the respective arguments and perusing the record, admittedly the petitioner is facing FIR in question for committing offence punishable under Section 304-A IPC. Undisputedly it has been

observed by the full Bench of this Court in ***Kulwinder Singh's case (supra)*** that the compromise in a modern society is sine qua non of harmony and orderly behaviour and as such the dispute having their genesis in a matrimonial discord, landlord-tenant matters, commercial matters and other such matters which can safely be dealt with by the Court by exercising its powers under Section 482 Cr.P.C in the event of a compromise. Court had wide power to quash the proceedings even in non-compoundable offences notwithstanding the bar under Section 320 Cr.P.C, in order to prevent the abuse of law and to secure the ends of justice.

6. However, as regards the offences where the victim has infact died as a result of the act and conduct of the offender like case under Section 304-A, 306 IPC etc the Court has to exercise jurisdiction under Section 482 Cr.P.C with care and caution. The Hon'ble Apex Court in ***Daxaben vs. State of Gujarat & Ors, 2022 CriLJ 3438 (SC)*** has observed that FIR under Section 306 IPC cannot be quashed on the basis of any financial settlement with the informant or legal heirs of the deceased. The Hon'ble Division Bench of this Court had held in ***Baldev Singh's case (supra)*** that in case under Section 304-A IPC there cannot be quashing under Section 482 Cr.P.C. solely on the basis of compromise arrived at between the legal heirs of the victim deceased and the accused. As the victim in such case would obviously not be present to effect the compromise and settle the matter. It has been observed therein that permitting the legal representative or legal heir to compromise or settle the matter is indeed an invitation to a dangerous trend and as such cannot be permitted in such like case. It is further been held there in that it would be incorrect to hold that the offence under Section

304 IPC is private in nature and its serious impact on the society is not subject to understatement. While deciding the case in *Baldev Singh’s case (supra)* the Hon’ble Division Bench observed 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.

XXXX	XXXX	XXXX
XXXX	XXXX	XXXX

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.”

7. The preposition laid down by Hon’ble Division Bench of this Court in ***Baldev Singh’s case (supra)*** has been followed by this Court in ***CRM-M No. 44033 of 2023, Lalit Kumar vs. State of Haryana & another***, dated 04.09.2023, and ***CRM-M-50863-2022, Ajay Maan vs. State of Haryana and another***, dated 18.01.2024. Therefore, considering the preposition laid down in the judgments (supra), this Court does not find any merit in the present petition to entertain quashing of the FIR on the basis of the compromise effected by the accused with the legal heirs of the deceased, as a consequence the present petition stand dismissed.

(SANJIV BERRY)
JUDGE

28.02.2024

Gyan

- | | | |
|-----|----------------------------|--------|
| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |