

-1-

CRM-M-37147-2024
Decided on : 02.08.2024

..... Petitioners

..... Respondents

Mr. Gurasis Singh, Advocate
for respondent Nos.2 to 7.

The instant petition has been filed under Section 482 Cr.PC for quashing of FIR No.474 dated 22.12.2019 under Sections 279 and 304-A IPC registered at Police Station Kalanaur, District Rohtak and all the consequential proceedings arising out of the same, on the basis of compromise deed dated 10.07.2024 (Annexure P-1) arrived at, between the parties.

2. Learned counsel for the petitioner submits that after the registration of the FIR in question (Annexure P-3), the parties have amicably settled their dispute with the intervention of respectables and well-wishers. Given this settlement the continuation of criminal proceedings would be purposeless and futile exercise. In support,



CRM-M-37147-2024

-2-

learned counsel has placed reliance on ***Sunil Malhotra and another vs. State of NCT of Delhi and another, (Crl. M.C.-2167/2023 decided on 22.11.2023), Sikander Yadav and another vs. State of Haryana and others (CRM-M-55259-2019 decided on 24.02.2023)***. Moreover, learned counsel has underscored that the petitioner has no criminal antecedents and has never been declared a proclaimed offender in any case.

3. Learned counsel appearing for respondents No.2 to 7 does not contest the submissions made by learned counsel for the petitioner and also does not oppose his prayer for quashing of the FIR based on compromise (Annexure P-1).

4. Learned State counsel has, however, vehemently opposed the prayer made by learned counsel for the petitioner for quashing of the FIR in question. Learned State counsel has argued that the compromise has been effected between the petitioner and the family members of the deceased, which cannot be accepted; a compromise can only be arrived at between an accused and the victim. Since in the present case it is the deceased, who is the victim, any compromise effected between the parties would run contrary to law and thus, deserves to be rejected.

5. Heard learned counsel for the parties and perused the relevant material available on record.

6. As per the allegations levelled in the FIR in question, on

8. The central issue, which thus, arises is as to who would be termed as a 'victim' or 'aggrieved person' under Section 2(wa) Cr.PC. It would be, thus, apposite to reproduce Section 2(wa) Cr.PC wherein term 'victim' has been defined, which is as under:

(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;

9. A reading of aforementioned leaves no doubt that the term 'victim' includes individuals, who have suffered loss or injury due to the actions of an accused, as well as their legal heirs or guardians. In offences affecting the human body, such as under Sections 302, 304, 304-A, 304-B and 396 IPC etc. the deceased, without a doubt, would be the primary victim, with legal heirs, included to a limited extent for the purpose of maintaining an appeal within the first part of Section 2(wa) of Cr.PC.

10. In the present case, the petitioner has been charged for offences punishable under Sections 304-A and 279 IPC, which cannot be considered to be private offences. The deceased Mahendra, is the primary victim, having suffered fatal injuries due to the alleged negligent driving of the petitioner. It needs to be categorically emphasized that a compromise effected between the family of the petitioner and the family of the deceased cannot negate the legal consequences of the offence. Such a compromise, excluding the primary victim, would be contrary to the law. Offences under Section 304-A IPC with their significant societal impact, cannot be deemed private. The lack of *mens rea* does not lessen the gravity of an offence. Quashing an FIR under Section 304-A IPC based on a compromise between the accused and the legal representatives/legal



CRM-M-37147-2024

-5-

heirs of the deceased would be unjust.

11. As a sequel to the above, this Court is not inclined to quash the FIR in question as well as all the proceedings arising therefrom on the basis of compromise effected between the petitioner and the complainant i.e. brother of the deceased. Accordingly, the present petition stands dismissed.

12. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

02.08.2024
sonia

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