

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

SR. No.119

CRM-M-35407-2019 (O&M)
Date of decision:29.01.2024

Angrej Singh

Versus

State of Punjab and others

...Petitioner

...Respondent(s)

CORAM: HON’BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. Balram Prashar, Advocate for the petitioner.
Mr. I.P.S. Sabharwal, DAG, Punjab .

N.S. SHEKHAWAT, J.

CRM-2338-2024

1. Applicant-petitioner prays for recalling of the order dated 05.09.2023 passed by this Court.
2. Heard.
3. For the reasons mentioned in the application, the same is allowed. CRM-M-35407-2023 is restored to its original number and status.

CRM-M-35407-2023

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.216 dated 13.10.2015 registered under Sections 279/337/338/427/304-A IPC at Police Station Laddowal, District Ludhiana on the basis of compromise (Annexure P-2) between the parties.
2. Learned counsel for the petitioner contends that the petitioner

has been falsely involved in the aforementioned FIR. He further contends

that now with the intervention of the respectables of the society, the petitioner had entered into a compromise with the legal representative of the deceased, namely, Kulwant Singh and a compromise deed dated 11.07.2019 (Annexure P-2) was executed between the parties in this regard. Consequently it is prayed that FIR (Annexure P-1) is ordered to be quashed on the basis of the compromise between the parties.

3. I have heard learned counsel for the petitioner and perused the case file.

4. A question was formulated by the Single Bench of this Court for consideration of a larger bench as to whether “the crime registered under Section 304-A IPC can be quashed on the basis of the compromise arrived at by the legal heir/legal representatives of the victim/deceased with the offender”? The said question was considered by a Division Bench of this Court in **CRM-M 40769 of 2014 titled as ‘Baldev Vs. State of Punjab and another’** and the following observations have been made:-

“15. The offence under Section 304-A IPC presents a situation where the victim has lost his life in an accident. The legal representatives of the deceased may enter into a compromise with the accused for considerations best known to them, but to say that an offence under Section 304-A is private in nature is wholly incorrect. It is an offence which impacts society as a whole with its ripples casting their net far and wide, permeating to the very core.

*16. While dealing with the question of reduction of sentence imposed under Section 304-A on account of compensation paid to the legal representatives of the deceased it has been observed by the Hon'ble Supreme Court in **State of Punjab v. Saurabh Bakshi**, Criminal Appeal No. 520 of 2015, that there can be no*

proposition of law that whenever an accused offers acceptable compensation for rehabilitation of a victim regardless of the gravity of the crime under Section 304-A, there should be a reduction in the sentence imposed. The increase in the number of road accidents where the drivers were totally rash and negligent was noticed. It was observed that they were driving with youthful enthusiasm as if there were no traffic rules or no discipline of law had come centre stage. Misplaced sympathy while applying the payment of compensation in such cases was decried. Such a mockery of justice would necessarily shatter the faith of public in the judicial system. There should not be an impetus to the nonchalant attitude of drivers who feel that “they are emperors of all they survey”. In a situation where poor felt that their lives are not safe and the pedestrians think of their uncertainty and the civilized persons drove in constant fear but were still apprehensive about the obnoxious attitude of the people who project themselves as larger than life the Hon'ble Supreme Court in immense anguish observed that the law makers should scrutinize, re-look and re-visit the sentencing policy in Section 304-A IPC. It is specifically observed that it is obligatory on the part of the court to see the impact of the society as a whole and its ramifications on the immediate collective as well as its repercussions on the victim.

17. *In Dalbir Singh v. State of Haryana 2000(2) R.C.R. (Criminal) 816*, it is observed by the Hon'ble Supreme Court that,

“1. When automobiles have become death traps any leniency shown to drivers who are found guilty of rash driving would be at the risk of further escalation of road accidents. All those who are manning the steering of automobiles, particularly professional drivers, must be kept under constant reminders of their duty to adopt

utmost care and also of the consequences befalling them in cases of dereliction. One of the most effective ways of keeping such drivers under mental vigil is to maintain a deterrent element in the sentencing sphere. Any latitude shown to them in that sphere would tempt them to make driving frivolous and a frolic.

(Emphasis added)

13. Bearing in mind the galloping trend in road accidents in India and the devastating consequences visiting the victims and their families, criminal courts cannot treat the nature of the offence under Section 304-A IPC as attracting the benevolent provisions of Section 4 of the Probation of Offenders Act. While considering the quantum of sentence to be imposed for the offence of causing death by rash or negligent driving of automobiles, 6 (2000) 5 SCC 821 Page 13 one of the prime considerations should be deterrence. A professional driver pedals the accelerator of the automobile almost throughout his working hours. He must constantly inform himself that he cannot afford to have a single moment of laxity or inattentiveness when his leg is on the pedal of a vehicle in locomotion. He cannot and should not take a chance thinking that a rash driving need not necessarily cause any accident; or even if any accident occurs it need not necessarily result in the death of any human being; or even if such death ensues he might not be convicted of the offence; and lastly, that even if he is convicted he would be dealt with leniently by the court. He must always keep in his mind the fear psyche that if he is convicted of the offence for causing death of a human being due to his callous driving of the vehicle he cannot escape from a jail sentence. This is the role which the courts can play, particularly at the level of

trial courts, for lessening the high rate of motor accidents due to callous driving of automobiles.”

18. *In the facts and circumstances of the case it would indeed be paradoxical and incorrect to hold that the offence under Section 304-A 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.	XXX	XXX	XXX	XXX	XXX
20	XXX	XXX	XXX	XXX	XXX

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 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 no clothe him/them to enter into such a settlement, though the legal representative, undoubtedly has the authority to file an appeal or receive compensation.”*

6. In view of the observations made in **Baldev Singh’s** case (supra), the present petition is held to be not maintainable and is dismissed. Pending application(s), if any, shall also stand disposed of, accordingly.

29.01.2024
mks

(N.S. SHEKHAWAT)
JUDGE

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO