



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

309

CRM-M-41496-2023

Date of decision: November 28th, 2024

Karam Singh @ Karma

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. A.P. Kaushal, Advocate
for the petitioner.

Mr. Navdeep Singh, Deputy Advocate General, Punjab.

Mr. Aman Sorout, Advocate
for Mr. R.K. Grewal, Advocate
for respondents No.2 and 3.

MANJARI NEHRU KAUL, J.

The instant petition has been filed under Section 482 of the Cr.P.C. for quashing of FIR No.191 dated 23.10.2016 under Section 304 of the IPC registered at Police Station Sadar Khanna, which is reduced to 304-A of the IPC, and subsequent proceedings arising therefrom on the basis of compromise dated 19.07.2023 (Annexure P-2).

2. Learned counsel for the petitioner submits that following the registration of the FIR in question (Annexure P-1) for offence under Section 304-A of the IPC, the petitioner and the family members of the deceased have amicably resolved their disputes. It has been emphasized by the learned counsel that statements recording this settlement have been duly recorded in compliance of order dated 08.11.2023 passed by a coordinate Bench of this Court, and the parties now seek to bring

closure to the matter. In support, learned counsel for the petitioner has placed reliance upon the judgment of Hon'ble Delhi High Court in *CRL.M.C. 2167/2023 & CRL.M.A. 8194/2023* titled as *Sunil Malhotra and anr. Versus The State NCT of Delhi and anr.*, wherein an FIR under Section 304-A of the IPC was quashed on the basis of a compromise between the accused and the family members of the deceased. A prayer has, therefore, been made to quash the FIR in question.

3. Learned counsel for the respondents/complainant, while not opposing the submissions of the counsel for the petitioner, has affirmed that the petitioner and the family members of the deceased/private respondents have indeed reached a settlement and, therefore, they would have no objection to the quashing of the FIR in question.

4. The learned state counsel, however, has opposed the prayer for quashing of the FIR in question, by drawing the attention of this Court to the allegations levelled in the FIR, which stand reproduced hereinunder:

“Statement of Gulshan Kumar s/o Avtar Kishan r/o H.no. 95 Mohalla GTB nagar Lalheri road, strret no. 6-R, Khanna aged about 37 years 84371 88992 stated that I am resident of above mentioned address and I am working as private Photographer. On dated 21.10.2016 I along with my maternal uncle Jatinderpal @ Bittu s/o Naseeb Chand r/o Village Issur travelled in bus of General Transport Khanna to issru and Simran Singh s/o Kulwinder singh r/o issur was also along with us, when the bus is just before Issur then at about 12:30 then Driver of the Bus calling the conductor with name of Sonu, the Sonu Conductor told that passenger of Issru be stand up then I along with my maternal uncle jatinderpal and Simran Singh went towards the gate of the bus, my maternal uncle was stood before me in the gate of the bus

andi was behind him then conductor sonu asked to returned the tickets from my maternal uncle and my maternal uncle refused for the same and he argued with the conductor then Conductor Sonu hit my maternal uncle Jatinderpal by elbow and due to the hit of elbow my maternal uncle fall on the matelled road from the door of the bus then I and Simran made hue and cry and got stopped the bus and went to Jatinderpal and jatinderpal got injuries on head, back and left hand and blood was oozing from them then we called at 108 and took my maternal uncle to Civil Hospital Khanna and then they referred him to PGI after giving First Aid but we tok our maternal unlce to CHC, Sector-32 Chandigarh. Yesterday when we take our maternal uncle to some other hospital for treatment from sector 32 Chandigarh and he expired on the way. We took dead body of our maternal uncle jatinderpal to Civil Hospital Khanna which kept bin mortuary. this accident is happen due to hit of elbow of Conductor sonu as the door of Bus no. 8366 of General Transport Company Khanna was open.Action be atken against the Sonu Conductor of above mentioned numbered bus.”

5. It has been argued that an FIR can no doubt be quashed on the basis of a compromise between the accused and the complainant party, in certain non-compoundable offences also, however, in the present case, the private respondents cannot be considered the ‘victim’ of the alleged offences under Section 304-A of the IPC as it was the deceased, who tragically lost his life due to the alleged rash and negligent act of the petitioner. It has been argued that in case the FIR in question is quashed, it would be contrary to public policy and the principles of criminal justice.

6. I have heard and carefully considered the submissions of learned counsel for the parties and perused the material on record

including the allegations levelled in the FIR in question.

7. The principal issue for determination in the present case is whether an FIR for offence under Section 304-A of the IPC, an offence resulting in the loss of life of an individual on account of the alleged rash and negligent act of an accused, can be quashed based on a compromise between the accused and the family members of the deceased.

8. The pivotal issue in criminal law, in this context, revolves around identifying who constitutes the 'victim' of an offence under Section 304-A of the IPC. The term 'victim' is not merely a procedural label; it signifies the individual, who has directly endured harm or loss as a consequence of the alleged criminal act. In offences leading to the death of an individual, such as those for offences under Sections 304, 304-A, 306, 302 of the IPC etc., it is the deceased, who is unequivocally direct and primary victim.

9. While the family members of the deceased are undeniably deeply affected by the loss and bear emotional and personal repercussions, their role in the criminal proceedings remains secondary. They act as complainants or representatives seeking justice on behalf of the deceased. Nonetheless, the harm suffered by the deceased constitutes the crux of the offence. Any resolution or compromise aimed at nullifying the offence cannot be legally given effect to without the direct participation of the primary victim. In such cases, this involvement is inherently impossible.

10. Learned counsel for the petitioner has relied on a judgment of Hon'ble Delhi High Court in *Sunil Malhotra and another's case (supra)*, wherein an FIR under Section 304-A of the IPC was quashed on the basis of a compromise between the accused and the family

members of the deceased, however, this Court finds itself unable to concur with the reasoning adopted in that judgment in the light of the following observations made by Hon'ble Division Bench of this Court in ***Baldev Singh Versus State of Punjab 2016 (164) AIC 307***, wherein it unequivocally held that FIRs for the offences resulting in death cannot be quashed merely on the basis of a settlement between the accused and the family members of the deceased:

“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.”

11. Further, this Court in ***CRM-M-40039-2024*** titled as ***Sukhwinder Singh @ Jassi @ Dhatu Versus State of Punjab and others*** held as under:-

“7. It is crucial to recognize that when the offence in question is non-compoundable, as in the present case, quashing the FIR/compounding the offences based on a compromise is only permissible when the accused and the victim both are parties to the settlement.

8. From a legal perspective, the term ‘victim’ encompasses several dimensions:

(i) Direct Sufferer of Harm: The primary meaning of ‘victim’, refers to an individual,

who has directly experienced loss, harm and injury as a result of the alleged criminal act or omission. This person is the immediate recipient of the offence, such as someone, who is physically injured or may have suffered damage to his or her property.

*(ii) **Inclusion of Legal Representatives:** The term ‘victim’ may also extend to the legal representatives of the victim, such as guardians or legal heirs, particularly when the victim is deceased. These representatives of a deceased-victim are included in the definition to enable their participation in legal proceedings (such as filing appeals or seeking compensation), however, they do not hold the same status as the direct victim. Their role is primarily procedural and does not extend to settling or compromising criminal charges directly, especially in serious offences.*

*(iii) **Broader Legal Context:** The term ‘victim’ also implies a broader societal interest in protecting individuals from harm and ensuring accountability. It reflects the commitment of the legal system to not only addressing the immediate impact of criminal acts upon individuals but also the broader implications for societal safety and justice.*

9. *Thus, in the context of offences that directly impact the human body-such as those punishable under Sections 302, 304, 304-A, 304-B and 396 of the IPC/103, 105, 106(1), 80, 310 (3) of the BNS etc.-the victim is unequivocally the deceased, as he is the primary individual, who has endured the harm, culminating in the ultimate loss of life due to the actions or negligence of the accused. The status of the deceased as the primary victim is established by*

the irreversible and fatal nature of the injury suffered.”

12. Furthermore, this Court in **CRM-M No.31007 of 2019** titled as ***Sharif Khan Versus State of Haryana and others*** further observed as under:

“The question which thus arises is as to who could be termed “a victim/aggrieved person” in a given case. It would be thus, apposite to reproduce Section 2(wa) of Cr.P.C., wherein, the term 'victim' has been defined, as under:-

“2(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.”

A reading of the aforementioned, leaves no manner of doubt that in offences particularly affecting the human body (e.g. under Sections 302/304/304A/304B and 396 IPC), it is the deceased, who would fall within the meaning of 'victim' as it is, he/she, who has suffered the injury and subsequent loss of life on account of the act or omission for which the accused has been charged with. No doubt, the legal heirs of the deceased would also fall within the definition of 'victim', but that would be to a limited extent for the purpose of maintaining an appeal within the first part of Section 2(wa) of Cr.P.C.”

13. It would also be apposite to refer to the observations made by Hon’ble the Supreme Court and law laid down in ***Daxaben Versus The State of Gujarat and others 2022 LiveLaw (SC) 642***, wherein the Apex Court explicitly deprecated the practice of quashing of FIRs in heinous crimes on the basis of compromise. Hon’ble the Supreme Court

highlighted that such an approach undermines the seriousness of the offence and erodes public confidence in the justice system. The Apex Court also observed that serious offences involving loss of life cannot be treated as private dispute capable of being resolved through settlements.

14. In the light of various pronouncements of Hon'ble the Supreme Court as well as this Court in *Baldev Singh's case (supra)*, it can be safely deduced that the rationale underlying the prohibition against quashing of FIR in cases involving death of an individual is rooted in the principles of public policy and the need for accountability in criminal justice. The death of a person, particularly due to alleged criminal negligence, is not merely a personal loss for the family but also a matter of societal concern. The justice system must ensure that the accused is held accountable, and the rights of the deceased are safeguarded. It needs to be emphasized that the deceased being the principal victim, is entitled to justice, and his rights cannot be compromised by any agreement between the accused and others. Allowing compromises in such cases would effectively reduce the gravity of the offence and convey a wrong message that accountability for loss of life can be negotiated.

15. In the present case, while the family members of the deceased have expressed their willingness to compromise, this Court cannot ignore the fact that the deceased remains the primary victim. The right of the deceased to justice cannot be diluted by any settlement entered into by his family members, as they do not have the legal authority to extinguish the alleged offence on behalf of the deceased.

16. As a sequel to the above, this Court has no hesitation in holding that since the alleged offence under Section 304-A of the IPC pertains to the loss of life due to the alleged and negligent conduct of the petitioner, coupled with the deceased being the direct and primary victim of the alleged offence, the FIR in question cannot be quashed on the basis of a compromise. The family members of the deceased, while emotionally connected to the proceedings, do not have the legal standing to negotiate the rights of the deceased or absolve the accused-petitioner of criminal liability. The alleged offence directly impacts public justice and the rights of the deceased as the primary victim must be upheld.

17. Accordingly, the instant petition stands dismissed.

18. 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.

November 28th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes