



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

120

CRM-M-41100-2024
Date of decision: 27.08.2024

Deepak GulatiPetitioner

Versus

State of Haryana and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Shivam Sachdeva, Advocate for the petitioner.

MANJARI NEHRU KAUL, J.

1. The instant petition is for quashing of FIR No.356 dated 07.09.2019 under Section 304-A of the IPC registered at Police Station Ambala City (Annexure P-1), along with charges framed under Section 304-A, 188 of the IPC and all consequential proceedings arising out of the same, on the basis of compromise 06.08.2024 (Annexure P-3) arrived at, between the parties.

2. Learned counsel for the petitioner submits that subsequent to the registration of the FIR in question, annexed as Annexure P-1, with the intervention of the respectables and well wishers, the parties have amicably resolved all their disputes and arrived at an amicable settlement. Hence, in the light of this compromise (Annexure P-3), continuation of criminal proceedings would serve no meaningful purpose and would be a futile exercise. It has also been asserted that the petitioner has clean antecedents as he is not involved in any other



criminal case.

3. I have heard learned counsel for the petitioner and perused the relevant material on record.

4. As per allegations contained in the FIR (Annexure P-1), complainant, Ashish Kumar, who was employed as a helper at Harmilap Cloth House, Ambala City, stated that Ramesh Kumar (hereinafter referred to as 'deceased') had been engaged as a helper at the shop three days prior to the accident in question. The shop comprises a four storey showroom, equipped with a loading lift. However, allegedly no dedicated operator was assigned to operate the lift, and crucial safety measures, such as emergency door or sensor, to activate in case of an accident were absent. Consequently, the employees operated the lift themselves. Given that the deceased was newly employed, he was unfamiliar with the operation of the lift. The employees had previously requested their employer, i.e. the petitioner, to install safety features like a safety door and sensor, but these requests were ignored by him.

4A. On the day of the alleged accident, the shop of the petitioner opened at 10:00 A.M., and the complainant, along with the deceased and other employees arrived at work. Shortly thereafter, the petitioner instructed the complainant to go to the cloth market for work. Around 10:40 A.M., the complainant was asked to rush back to the shop. Upon his return, he discovered that the deceased had been trapped in the loading lift. Despite all efforts to break open the lift and rescue the deceased, the deceased was badly injured. The deceased was



CRM-M-41100-2024

-3-

rushed to Civil Hospital, Ambala City, where he was pronounced dead. It was alleged in the FIR that the accident in question had occurred due to the failure and negligence on the part of the petitioner in not installing essential safety equipment in the lift, leading to the death of the deceased.

5. No doubt, this Court possesses extraordinary powers under Section 482 of the Cr.P.C./528 of the BNSS, to quash an FIR, particularly in cases where the offences are of a private nature, and the parties involved have resolved their disputes amicably. However, it is imperative to emphasize that while these powers are extensive, they are not absolute and must be exercised with utmost caution and restraint, particularly in cases of a serious nature that have significant societal implications. The Supreme Court has also repeatedly cautioned against the indiscriminate quashing of FIRs, even in cases where a settlement has been reached, especially when the offences in question have a substantial impact on society. Furthermore, in certain cases, the quashing of an FIR based on a compromise is permissible, however, such compromises can only be given effect to, when both the accused and the victim are parties to the settlement.

6. In this context, this Court in case ***CRM-M-40039-2024 titled as 'Sukhwinder Singh @ Jassi @ Dhatu Vs. State of Punjab and others', decided on 20.08.2024***, while dealing with a similar prayer for quashing of an FIR on the basis of a compromise for offences punishable under Section 279, 304A, 337, 427 of the IPC, observed and held as follows:-



“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.”

7. In the present case, the deceased, a 21 year old worker,

allegedly lost his life due to the failure and negligence on the part of his



CRM-M-41100-2024

-5-

employer i.e. the petitioner, in not installing essential safety equipment in the lift at his shop. The deceased is the actual victim, having suffered the ultimate and irrevocable loss — his life. Therefore, any compromise between the petitioner and the legal representative of the deceased i.e. respondent No.2, would be contrary to the mandate of law, moreso when respondent No.2 was neither the author of the FIR in question or even an eye witness to the alleged accident.

8. Quashing of an FIR for offences under Sections 302, 304, 304A, 304B, 306 of the IPC/103(1), 105, 106(1), 80, 108 of the BNS, under the aforementioned circumstances would undermine the purpose of the law and set a dangerous precedent. Offences under Sections 302, 304, 304A, 304B, 306 of the IPC/103(1), 105, 106(1), 80, 108 of the BNS cannot be considered private in nature. In the present case, where the petitioner is facing trial for offences 304-A, 188 of the IPC/106(1), 223 of the BNS, the absence of *mens rea* does not diminish the severity of causing death through rash and negligent acts. These offences are distinct from private disputes, such as matrimonial and family disputes, where a compromise may be more appropriate.

9. The aforesaid position was affirmed by a Division Bench of this Court in ***Baldev Singh Vs. State of Punjab : 2016 (164) AIC 307*** wherein it was held 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 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.

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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 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.”

10. Adverting to the present case as already observed earlier, complainant Ashish Kumar, who was a witness to the alleged occurrence, has not been arrayed as a respondent. The true victim in this case is the deceased, who suffered the ultimate loss — his life.



Consequently, the compromise between the petitioner and respondent No.2 (mother of the deceased), who was not even present at the time of the alleged accident, is legally untenable and runs contrary to the spirit of law.

11. In cases of this nature, the role of the Court becomes pivotal, embodying the principles of *justitia nemini neganda est*—justice is to be denied to no one—and the doctrine of *parens patriae*. The former principle asserts that justice must be accessible to all, including those who cannot advocate for themselves, such as the deceased in this case. The latter doctrine, meaning “parent of the father land” empowers the Government and Courts to intervene on behalf of individuals or groups who are unable to represent their own interests, such as, children, disabled adults, or, in this context, the deceased victim who can no longer advocate for his own rights.

12. The Constitution enforces these doctrines through Preamble, Fundamental Rights, and Directive Principles of State Policy. The commitment of the Preamble of our Constitution to social and economic justice, and the protection of individual dignity, would extend even to those who have lost their lives due to the negligence of another. In such cases, the Court must act with the gravity and accountability as if it were directly answerable to the deceased, ensuring that justice is served even when the victim can no longer speak for themselves.

13. As a sequel to the above, this Court is not inclined to accept the compromise purportedly arrived at between the petitioner



CRM-M-41100-2024

-8-

and the mother of the deceased i.e. respondent No.2. Accordingly, the instant petition stands dismissed.

14. 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.

27.08.2024

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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