

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Palwinder Singh	CRM-M-47773-2023
	Petitioner
Vs.	
State of Punjab & another	Respondents

Reserved On.: 07.03.2024
Pronounced On: 11.03.2024

CORAM: - HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued By: Mr. Akashdeep Miglani, Advocate
for the petitioner.

DEEPAK GUPTA, J.

By way of this petition filed under Section 482 Cr.P.C., prayer is made to quash FIR No.77 dated 03.04.2022 registered at Police Station Division No.5, Ludhiana under Sections 279, 427, 304-A, 337 & 338 of the IPC and all the subsequent proceedings arising therefrom on the basis of compromise (Annexure P-2).

2. It is contended that accident occurred on 02.04.2022, when petitioner was driving his car and the respondent along with her husband were going on scooty. In the said accident, the husband of respondent No.2 lost his life, whereas respondent No.2 sustained some injuries. On the statement of one Gagandeep Singh, FIR was registered. Challan has not been presented so far.

3. Learned counsel contends that with the intervention of the respectables, matter has since been compromised between the parties vide

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Annexure P-2 and so, FIR be quashed. Learned counsel submits that coordinate Bench of this Court has allowed quashing of an FIR for an offence under Section 304-A IPC in *CRM-M-36798-2022 titled as “Sarbjot Singh v. State of Punjab and others”* decided on 16.08.2023 by referring to authority of Hon’ble Supreme Court rendered in *“Kanagraj v. State” represented by the Inspector of Police, 2021(2) TAC 364.*

4. Learned State counsel strongly opposed the petition by submitting that FIR in question or the subsequent proceedings, involving an offence under Section 304-A of the IPC, cannot be quashed on the basis of compromise. Learned State counsel relies upon *CRM-M-50863-2022 titled as “Ajay Maan v. State of Haryana and another”* decided by this Court on 18.01.2024.

5. I have considered submissions of both the sides and perused the paper-book.

6. Similar question had arisen before this Court in *Ajay Maan’s case (supra)* and this Court held as under:-

“7. In **Gian Singh Vs. State of Punjab and another**, 2012(4) RCR (Criminal) 543, Hon’ble Supreme Court has explained the legal position with regard to the power of the High Court in quashing a criminal proceedings or FIR or complaint in exercise of its inherent jurisdiction under Section 482 IPC. It was held as under:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. **In what cases power to quash the crimi-**

nal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But **the criminal cases having overwhelmingly and predominately civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak** and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, **the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end** and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

8. A Coordinate Bench of this Court in the case of **Arjun Kumar @ Arun Kumar (Supra)** has also observed that the ultimate aim, objective and goal of a legal system is to reconcile the social conflicts inasmuch as law is required only to ensure that people do not have to fight with each other just to

protect their right to property, right to life and liberty and other rights secured to them by the legal system. It was observed further that the civil disputes are the conflicts between two parties, having lesser overtones for the social order, social harmony or the society as such and so absolute freedom is given to the parties to settle their disputes by compromises, of course, coming with certain legal consequences as well. However, the criminal disputes do not necessarily restrict themselves to only two parties to the dispute in terms of their scope, consequences and effect. The criminal acts tend to cast their effect and consequences even upon the society at large.

9. Section 304A IPC providing punishment for causing death due to rash and negligent act, cannot be considered to be dispute between the private parties. Said offence affects the society at large. A Division Bench of this Court in **Baldev Singh Vs. State of Punjab and another**, 2016(3) Law Herald 2020, observed that it would be 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. Hon'ble Division Bench held that quashing the proceedings under Section 304A IPC solely on the basis of settlement or compromise arrived at between the accused and the legal representatives is not permissible, as it militates against all canons of justice. Hon'ble Division Bench further held that 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. It will be apt to reproduce the observations as made by Hon'ble Division Bench of this Court in this regard, which reads as under:-

“Another argument addressed vehemently in favour of the proposition is that the legal heirs get adequate compensation in a given situation and a quietus is afforded to needless litigation, as many a times criminal proceedings are initiated solely with a view to seek compensation. There is a basic flaw in this argument which compels us to reject it. **To presume that a human life can be allowed to be shattered away due to the rash and negligent act, may be a mindless act or of false bravado or brazenness and thereafter permit its**

compounding/ settlement on the basis of 'just monetary compensation' or any other consideration amounts to nothing but a complete mockery of justice, totally offensive to civilized thought. The question of compensation under the Motor Vehicles Act is a totally separate issue. There can be no question of bartering of a human life in this manner. While being fully conscious of the ground realities of our society where the victim's family may be in penury and may be beguiled into a compromise due to the harsh realities of life, a stamp of approval over such an activity cannot be afforded by the court.

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.

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.

However, it is trite to mention that the power of the High Court under Section 482 Cr. P.C. can nevertheless be exercised in appropriate matters where it is felt that a prima facie case is not made out in consonance with the settled

principles of law. There can indeed be no fetter on this power to act for securing the ends of justice or to prevent the abuse of process of law. However, this observation for a moment is not to be construed as taking the possibility of a conviction being bleak due to settlement, to be a relevant factor for quashing the FIR under Section 304-A IPC. Reference is thus answered in the negative as there can be no quashing of an offence registered under Section 304-A and subsequent proceedings, solely on the basis of a compromise arrived at between the legal heirs/representatives of the victim (deceased) and the accused.”

11. In view of the aforesaid decision by a Division Bench of this Court, it is held that no advantage can be given to the petitioner of the single Bench authorities rendered by this Court in the case of **Arjun Kumar @ Arun Kumar (Supra)** or by the Delhi High Court in **Ashok Kumar (Supra)**, where FIR under Section 304A IPC on the basis of compromise, was allowed to be quashed.”

7. In view of the legal position as discussed above, particularly the view taken by a Division Bench of this Court in **Baldev Singh's case** (supra), which has been relied by this Court in **Ajay Maan's case**, it is apparent that no advantage can be given to the petitioner of the Single Bench authority rendered by this Court in **Sarbjot Singh's case** taking the contrary view.

8. It is also revealed that in Sarbjot Singh's case, co-ordinate Bench of this Court relied on **Kanagaraj v. State case (supra)**. In that case before Hon'ble Supreme Court, conviction of the appellant under Section 279 & 304-A of the IPC was recorded and he had been sentenced to undergo 06 months simple imprisonment and to pay a fine of ₹1,000/-. The appeal preferred against the said conviction and sentence was dismissed. Criminal revision preferred by the appellant was dismissed by the High Court. Matter reached Hon'ble Supreme Court, wherein dispute was raised regarding allegation of rash and negligent driving and alternative prayer was made to set aside the

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sentence. Hon’ble Supreme Court, without setting aside the conviction and on the consent of the private respondent, set aside the sentence only and enhanced the fine to ₹3,00,000/- payable as compensation to the son of deceased-respondent No.2.

9. It is, thus, clear that in *Kanagaraj’s case (supra)*, Hon’ble Supreme Court did not allow quashing of the petition involving offence under Section 304-A IPC on the basis of any compromise. Rather, without setting aside the conviction of the appellant recorded under Section 304-A IPC, only the sentence was modified and instead of sentencing the appellant to imprisonment, the amount of fine was enhanced. Obviously, the said authority is of no help to advance the case of the petitioner in the present case, wherein he has prayed for quashing of the FIR on the basis of compromise.

10. In view of the aforesaid discussion and particularly the view taken by this Court in *Ajay Maan’s case*, by making reference to Division Bench authority of this Court in *Baldev Singh’s case*, this Court does not find any merit in the petition so as to quash the FIR based on compromise.

As such, petition is hereby dismissed.

(DEEPAK GUPTA)
JUDGE

March 11, 2024

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No