

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

CRM-M-50863-2022
Reserved on: 15.01.2024
Pronounced on: 18.01.2024
2024: PHHC: 006509

AJAY MAAN

. . . . Petitioner

Vs.

State of Haryana and another

. . . . Respondents

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Divyam Singh Dhakla, Advocate, for the petitioner.

Mr. Randhir Singh, Addl. A.G., Haryana.

None for respondent No.2.

DEEPAK GUPTA, J.

By way of this petition filed under Section 482 CrPC, petitioner prays for quashing the FIR No.301 dated 15.04.2022 registered under Sections 279/304A IPC at Police Station Karnal Sadar, District Karnal along with all subsequent proceedings arising therefrom on the basis of compromise dated 28.10.2022 (Annexure P2).

2. Although counsel for respondent No.2 conceded the factum of compromise and stated that he did not have any objection to quash the FIR on the basis of compromise, but ld. State counsel has raised serious objection to it having regard to the nature of offence.

3. FIR in question was lodged on the complaint of respondent No.2, as per which on 14.04.2022, his brother Dilbagh (since deceased) was driving tractor trolley and moving towards Subhri Majra village. He (complainant) was behind the tractor trolley on a motorcycle. At about 10:00

PM, after crossing Staundi canal, a car came at a high speed being driven in rash and negligent manner, crossed the complainant and hit the tractor trolley of Dilbagh from backside, as a result of which the tractor trolley turned turtle. Dilbagh came under the tractor trolley. Complainant raised noise. With the help of passerby, complainant managed to take out his brother. The car driver escaped from the spot leaving the car behind. Dilbagh was taken to the hospital, but was declared brought dead.

4. FIR was registered and after completion of investigation, final report under Section 173 CrPC was filed before the Judicial Magistrate to prosecute the accused-petitioner.

5 It is contended by ld. counsel that the matter has been compromised with respondent No.2-complainant. Copy of compromise is Annexure P2 and that continuing of the proceedings will be wastage of precious time of this Court. Ld. counsel has relied upon a decision of this Court rendered in *Arjun Kumar @ Arun Kumar Vs. State of Punjab and others, 2018(4) RCR (Criminal) 1*, wherein quashing on the basis of compromise in a case in under Sections 279, 337 and 304A IPC was allowed. Similarly, Delhi High Court allowed quashing of the FIR on the basis of compromise in a case under Sections 279/304A IPC in *Ashok Kumar Vs. State 2014 (1) JCC 432*.

6. Heard. Submissions considered.

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 criminal 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 predominatingly 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.

12. Apart from above, it is also important to be noticed that respondent No.2-Bal Ram is only the informant and the eyewitness of the accident, though also the brother of the deceased. He is not the Class-I legal heir of deceased Dilbagh. The widow or children of the deceased, if any, or any other Class-I legal heir of the deceased, are not the party to the alleged compromise. For these reasons also, the compromise effected between the petitioner and respondent No.2 cannot be given any effect for quashing the FIR on the basis of compromise.

13. On account of entire discussion as above, this Court is not inclined to quash the FIR in question on the basis of compromise.

Dismissed.

(DEEPAK GUPTA)
JUDGE

18.01.2024

Vivek

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No