

2025:PHHC:097283



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

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**CRM-M-59045-2023
DECIDED ON: 20.05.2025**

NEERAJ YADAV

....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Jaspal Guru, Advocate for the petitioner

Mr. Chetan Sharma, DAG Punjab

Mr. Shrome Garg, Advocate for respondent no. 1

Mr. Rahul Aggarwal, Advocate for respondents no. 2& 3.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer:

The present petition has been filed under Section 482 of CrPC,1973 seeking quashing of FIR No.0123, dated 19.05.2023, under Sections 279, 304-A of IPC and Section 196 of the Motor Vehicles (Amendment) Act 2019, registered at Police Station, Industrial Area Sector 7, Manesar, District Gurugram and all consequential proceedings arising therefrom on the ground of compromise between parties vide compromise deed dated 14.08.2023 (Annexure P-4).

2. Facts

Factual Matrix of the case unfolds as, the present case came to be registered on a complaint filed by Respondent no. 2 alleging that on 18.05.2023, the complainant along with the deceased, Lt. Smt. Rajni, were going on his motor cycle. The petitioner while reversing his vehicle made a sudden movement and hit the backside of respondent no. 2's motorcycle, leading to the deceased sitting on the rear side of the said motorcycle, to fall and suffer injuries. Thereafter the petitioner fled from the spot. The respondent no. 2 took the deceased to the hospital where she succumbed to her injuries.

3. Contentions:

On behalf of petitioner

Learned Counsel for the petitioner contends to have been falsely implicated in the present FIR. It is submitted that the collision was unintentional and the act of the petitioner does not amount to culpable rashness or negligence, thus the offence under Section 279 and Section 304-A IPC is not made out.

It is further contended that subsequent to the lodging of the instant FIR, with the intervention of respectables of the society, the petitioners and the legal heirs of the deceased i.e. her husband Mukesh himself as well as on behalf of minors Nitin and Anikesh have amicably resolved their dispute and executed a compromise deed dated 14.08.2023 appended as Annexure P4. Relying on this compromise, learned counsel asserts that therefore there remains no justification for continuing the

criminal proceedings against the petitioner and it is in the interest of justice to allow the quashing of the present FIR.

Upon being questioned by the court as to the maintainability of the present petition in which prayer for quashing of FIR based upon compromise is advanced as it is involving the offence of Section 304-A IPC which is non-compoundable in nature, it was furthered that although the present FIR is under 304-A IPC and cannot be quashed in normal parlance but pertaining to the facts and circumstances of the present case, as no negligent act can be made out, this would warrant interference of this Court for quashing of the FIR on basis of compromise. Reliance has been placed upon a judgement of Delhi High Court in ***Babu Khan and another versus State and others, 2019 SCC OnLine Del 10007*** by the counsel for the petitioner.

On behalf of the State

Learned Counsel for the state vehemently opposes the present petition and submissions made by opposing counsel, by arguing that the offence in question involves the loss of a human life and any compromise entered into with the legal heirs of the deceased is legally inconsequential and cannot come to aid of the petitioner for the reason simplicitor that offences involved are serious and non-compoundable under Section 320, Code of Criminal Procedure (CrPC).

Furthermore, learned State counsel has also drawn the attention of the Court to the allegations levelled against the petitioners in the present FIR wherein he committed culpable negligence and showing reckless disregard later fled away from the spot. His negligent act led to the demise

of Lt. Smt. Rajni and thus, the petitioner shall not be allowed to escape punishment by settling the matter.

4. Analysis

Having heard learned counsel for the parties and perused the material placed on record.

It is essential for this Court to consider the extent and limitations of the inherent powers bestowed upon it under Section 482 of the Code of Criminal Procedure, 1973. It is a well-established principle of law that although the Court possesses wide discretionary authority to quash criminal proceedings in suitable cases, such discretion must be exercised judiciously especially when the offences involved are serious, non-compoundable, and bear broader societal consequences.

Moreso the Supreme Court in *State of Madhya Pradesh v. Laxmi Narayan & others, 2019 (5) SCC 688*, has rightly held that such power is not to be exercised in those cases which involve grave and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society.

The court is mindful of the clear and critical distinction between cases arising out of private disputes and those involving heinous offences which have far reaching implications beyond the parties concerned. Offence of a serious nature cannot be treated as mere personal matters capable of resolution through private compromise. Permitting the indiscriminate quashing of FIRs in such cases on the basis of settlement may establish a dangerous precedent, potentially leading to the abuse of the

criminal justice system where powerful individuals might evade legal consequences by coercing or manipulating victims into compromise.

In an endeavour of laying down categories of cases in which inherent power under Section 482 CrPC can be exercised the Apex Court in ***State of Haryana v. Bhajan Lal 1992 SCC (Cri) 426***, held as follows:

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution

and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

Furthermore, discussing the scope of quashing the FIR on the ground of compromise is legally tenable only when both the accused and the victim of the offence i.e. the person who has suffered the harm firsthand are parties to such a settlement. In offences resulting to death such as 302, 304-A, 304-B and 306 of IPC, the deceased is deemed the primary victim.

Although the legal heirs of the deceased may possess certain procedural rights such as the right to seek compensation, file appeals, or participate in legal proceedings their rights are limited to procedural participation and do not extend to the substantive extinguishment of criminal culpability. Given that the harm inflicted is irrevocable, no settlement or compromise entered into by the legal heirs can supplant the voice or interests of the deceased. Allowing the legal heirs to unilaterally effect a settlement in such matters would undermine the very purpose of the criminal justice system, which is to ensure accountability and uphold the rule of law.

But this court is conscious of the fact that the victim needs proper representation and in cases where the victim is under disability and unable to defend themselves, the doctrine of *Parens Patriae* comes into play. This doctrine realises the inherent power of the State to provide protection to the person and property of persons *non sui juris*. Thus, in instances where the victim is deceased, as in the case at hand, the Courts must regard themselves responsible towards the deceased and such grave and serious offences need to be adjudicated with the highest degree of solemnity keeping in mind the impact of such decision on the society as a whole.

Having regard to facts of the case at hand and bearing in mind the seriousness of the offence committed by the petitioner and its consequences, it is deemed necessary to discuss the invoked provision of Section 304-A, IPC herein below:

304-A. Causing death by negligence.—

Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

From the bare perusal of the aforementioned provision, the ingredients of this section can be laid out as:

- (1) There must be the death of a person;*
- (2) The death must be caused by the act of the accused;*
- (3) The death must be caused due to any rash or negligent act of the accused; and*

(4) *the act of the accused must not amount to culpable homicide.*

Section 304-A IPC applies when there is a direct link between the rash or negligent act of the accused to the death of the person that is in question. The act must result in the immediate cause for the death.

In the case at hand all these essential ingredients stand fulfilled thereby affirming criminal liability on the part of the petitioner under Section 304-A, IPC. Additionally, the doctrine of *res ipsa loquitor*, being a settled rule of evidence is triggered whereby a presumption of criminal negligence is raised and the burden of proof is shifted on the accused/petitioner to disprove the same defence for which has not been satisfactorily led.

The Court is of the view that since the ingredients of Section 304-A IPC stand fulfilled in addition to the stance that the judgement of **Babu Khan(supra)** as delivered by Delhi High Court which was relied upon by the counsel for the petitioner do not hold any good here as the facts and circumstances of the case dealt therein was different as injuries were caused only by an accident in a construction place and in present case the act of the petitioner was negligent and careless leading to the demise of victim.

It has also been observed by this court that the FIR clearly states that the petitioner fled away from the spot after the incident leaving the respondent no. 2 and victim/deceased to fend for themselves further strengthening the factum of culpability imposed on the petitioner.

The Supreme court while observing the importance of humanity and civic sense in the case of ***Parmanand Katara v. Union of India (UOI) and Ors. (1989) 4 SCC 286*** has urged as provided hereunder:

“it is the duty of every citizen to help a motor accident victim, more so when one is the cause of the accident, or is involved in that particular accident. Situations may be there, in a highly charged atmosphere or due to mob fury, the driver may flee from the place, if there is a real danger to his life, but he cannot shirk his responsibility of informing the police or other authorized persons or good samaritans forthwith, so that human lives could be saved. Failure to do so, may lead to serious consequences, as we see in the instant case. Passengers who are in the vehicle which met with an accident, have also a duty to arrange proper medical attention for the victims. Further they have equal responsibility to inform the police about the factum of the accident, in case of failure to do so they are aiding the crime and screening the offender from legal punishment.”

Therefore, keeping in mind the fact that offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed between two individuals only, for such offences have the potential to impact the society at large.

It is evident from the data presented in the *Accidental Deaths & Suicides in India (ADSI) 2022* report published by the National Crime Records Bureau (NCRB) that there is a discernible and troubling rise in the incidence of deaths resulting from accidents. This emerging trend reflects a

grave public safety concern. The Court further notes that in response to such concerns, the legislative framework governing offences related to road safety and negligent conduct has undergone significant reform. The enactment of the *Bharatiya Nyaya Sanhita, 2023 (BNS)*, which replaces the Indian Penal Code, 1860, has introduced more stringent penal provisions, thereby enhancing the scope and severity of punishments in cases involving culpable negligence, as given below:

106. (1) Whoever causes death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if such act is done by a registered medical practitioner while performing medical procedure, he shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

This legislative shift underscores the intent of the State to address the growing menace of accidental fatalities with greater seriousness and deterrence.

This Court recognises that the ambit of the right to life, as envisaged under Article 21 of the Constitution of India, is broad and inclusive, encompassing within it a spectrum of rights that are essential to ensuring a life of dignity, safety, and security. In this regard, the Hon'ble Supreme Court, in *Savelife Foundation v. Union of India*, (2016) 7 SCC 194, unequivocally held that the right to life under Article 21 of the Constitution includes the right to safety of persons travelling on roads and

the right to receive immediate medical assistance in the event of a road accident and also emphasised the State's constitutional obligation to protect human life.

To efface heinous or abhorrent offences through the process of quashing would not only undermine the legislative intent but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a 'settlement' through duress, threats, social boycotts, bribes or other dubious means. It is well said that "let no guilty man escape, if it can be avoided."

5. **Relief:**

In the light of the aforementioned discussions and settled propositions of law, this court is of the considered opinion that by no stretch of imagination a lenient view shall be accorded to the present petitioner as a precious human life was lost.

Therefore the instant petition is sans merit and is hereby dismissed with no order as to costs.

Ordered accordingly.

(SANDEEP MOUDGIL)
JUDGE

20.05.2025

Meenu

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