

(2014) 09 P&H CK 0200
In the Punjab And Haryana At Chandigarh
Case No : Criminal Misc. No. M-34062 of 2013

Satish Kumar

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 16-09-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 279, 304A, 427

Citation : (2014) 4 RCR(Criminal) 453

Hon'ble Judges : Mehinder Singh Sullar, J

Bench : Single Bench

Advocate : Munish Gupta, Advocate for the Appellant; Raj Preet Singh, A.A.G. and Manpreet Singh Longia, Advocate for the Respondent

Judgement

Mehinder Singh Sullar, J.—The epitome of the facts & material, which needs a necessary mention for the limited purpose of deciding the core controversy, involved in the instant petition and emanating from the record, as claimed by the prosecution, is that on 30.1.2012, Surjit Singh (deceased) s/o. Ram Lal was going towards his village on his bicycle, whereas complainant Kuldeep Singh s/o. Amar Singh (for brevity "the complainant") was going behind him on his cycle. At about 7.30 P.M., as soon as, they reached near the turn of Rodiyan Wale (place of occurrence), in the meantime, an Innova car, bearing registration No. PB-10-BV-4158 (for short "the offending vehicle"), being driven by petitioner Satish Kumar s/o. Ram Avtar (accused) at a high speed, rash, negligent and in careless manner, came and it rammed into the bicycle of Surjit Singh, culminating into his death. The petitioner ran away from the spot after causing the accident. Leveling a variety of allegations and narrating the sequence of events, in all, the prosecution claimed that the accident in question had taken place due to rash & negligent driving of the petitioner while driving the offending vehicle, in which, Surjit Singh had died. In the background of these allegations and in the wake of statement of the complainant, the present criminal case was registered against the petitioner-accused, vide F.I.R. No. 6 dated 31.1.2012 (Annexure P1), on

accusation of having committed the offences punishable u/ss. 279, 304-A and 427 IPC by the police of Police Station Mantiana, District Hoshiarpur in the manner depicted here-in-above.

2. Sequelly, instead of submitting to the jurisdiction of the trial Court, now the petitioner (main accused) has preferred the instant petition to quash the impugned F.I.R. and all subsequent proceedings arising therefrom on the basis of alleged undated compromise (Annexure P2).

3. The respondent-State of Punjab has contested the claim of petitioner and filed the reply, inter-alia pleading certain preliminary objections of, maintainability of the petition, cause of action and locus standi of the petitioner. According to the State, after completion of the investigation, the police has already submitted the final police report (challan) on 22.1.2013, the trial Court has already framed the charges against the petitioner-accused for committing the indicated offences, by virtue of order dated 16.2.2013 and the case is now slated for evidence of the prosecution. It was alleged that petitioner has neither supplied the copy of compromise nor informed the police in this regard. Moreover, the pointed offences are not compoundable. Instead of reproducing the entire contents of the reply and in order to avoid the repetition of facts, suffice it to say that the respondent-State has, inter-alia, reiterated all the allegations contained in the F.I.R. (Annexure P1). However, it will not be out of place to mention here that the State has stoutly denied all other allegations contained in the main petition and prayed for its dismissal. The remaining respondents did not file any reply.

4. After hearing the learned counsel for the parties, going through the record with their valuable help and after deep consideration over the entire matter, to my mind, there is no merit in the instant petition in this context.

5. Ex facie the arguments of learned counsel that although the offences punishable u/ss. 279, 304-A and 427 IPC are not compoundable, but still, the impugned F.I.R. (Annexure P1) deserves to be quashed on the basis of compromise (Annexure P2), in view of the observations of this Court in case State of Rajasthan Vs. Yusuf, , wherein in a very brief order, it was observed as under (paras. 5 to 7):-

"5. The said compromise has been arrived at between the parties without any pressure. The complainant as well as the legal heirs of the deceased have no objection if the said F.I.R. is quashed.

6. Taking into account the allegations, compromise dated 03.11.2010 as well as affidavits of the complainant and legal heirs, there is no impediment in the way of this Court to quash the present F.I.R. and subsequent proceedings arising out of the same in view of the above said settled proposition of law.

7. Accordingly, the present petition is allowed and F.I.R. No. 125 dated 29.07.2009 under Section 279, 304-A of Indian Penal Code Police Station Garshankar, District Hoshiarpur (Annexure P1) and subsequent proceedings

arising out the same are hereby quashed."

6. It is not a matter of dispute that the law with regard to quashing of the F.I.R. on the basis of compromise is no more res-integra and is now well settled by Hon"ble Supreme Court. The crux of the law laid down by Hon"ble Apex Court in case Gian Singh Vs. State of Punjab and Another, is that the F.I.R. can be quashed on the basis of compromise only in order to secure the ends of justice and to prevent abuse of process of any court and not otherwise, in exercise of power u/s. 482 Cr.P.C. by the High Court. At the same time, it was ruled that before exercising 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 of any offences like death, murder, rape, dacoity etc. cannot and should not be 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 the society.

7. Likewise, the same very view was again reiterated by Hon"ble Supreme Court in case Narinder Singh and Others Vs. State of Punjab and Another, Recent Apex Judgments (RAJ) 621.

8. Above being the legal position and the material on record, now the short & significant question, though important, which invites an immediate attention of this Court and arises for determination in the present petition is, as to whether, the impugned F.I.R. in the present case u/s. 304-A IPC (death case) etc. is liable to be quashed on the basis of compromise or not?

9. Having regard to the rival contentions of learned counsel for the parties and the indicated ratio of law, to me, the answer must obviously be in the negative in this respect.

10. As is evident from the record that very direct and serious allegations are assigned that the accident in question had taken place due to rash & negligent driving of the petitioner while driving the offending vehicle, in which, Surjit Singh had died. Indisputably, the complainant is not the legal heir of the deceased. Otherwise also, no cogent evidence is forth coming on record even to suggest remotely that who were the legal heirs of the deceased & all his dependents are parties to the alleged compromise and they all were fully compensated. The deceased was earning his livelihood while working at a Saloon ((hair dresser) shop at Bassi Daulat Khan. He was an earning hand. The alleged compromise is even undated. Moreover, it has been mentioned therein that the petitioner has agreed to pay a sum of Rs. 1,16,000/- as compensation to the second party only. That means, even the 2nd party is not getting the adequate compensation on account of death of Surjit Singh. In case, the impugned F.I.R. (Annexure P-1) is quashed on the basis of compromise, to my mind, it would be a clog on legitimate statutory right of the legal heirs/dependents of the deceased to claim compensation under Motor Vehicle Act. In that eventuality, it cannot possibly be said that the indicated settlement is to secure the ends of justice and to prevent

abuse of process of Court. On the contrary, it appears to be otherwise. Above-all, it cannot be disputed here is that the tendency and frequency of reckless driving the vehicle on the road by such accused endangering the lives of public at large, have been tremendously increasing day by day. Not only that, such offences are having direct impact on the society. The offences committed by the present petitioner are not only relatable to the 2nd party alone, but it affects the public at large. To my mind, the power u/s. 482 Cr.P.C. cannot and indeed should not always be exercised to quash the criminal prosecution on the basis of compromise in such heinous offences, having serious impact on the society. The sequence of events as narrated here-in-above, would leave no manner of doubt that the serious allegations of pointed offences are assigned to the petitioner, which, prima facie, duly attract the provisions of sections 279, 304-A and 427 IPC. Therefore, the mere fact that the petitioner-accused has entered into the alleged undated compromise (Annexure P2) with the complainant/2nd party is not a ground, muchless cogent, to quash the impugned F.I.R. in such heinous offences, having direct impact on the public under the present set of circumstances.

11. Meaning thereby, the above indicated ratio of law "mutatis mutandis" is applicable to the instant controversy and is the complete answer to the problem in hand. Therefore, to me, it would not be in the interest of justice to quash the impugned F.I.R. (Annexure P1) on the basis of alleged undated compromise (Annexure P2). On the contrary, it will inculcate and perpetuate injustice to the LRs of the deceased in particular and the society at large, which is not legally permissible, in exercise of powers u/s. 482 Cr.P.C. in the obtaining circumstances of the case.

12. In the light of aforesaid reasons, taking into consideration the totality of facts and circumstances, oozing out of the record, as discussed here-in-above and without commenting further anything on merits, lest it may prejudice the case of either side, during the course of trial of main case, as there is no merit, therefore, the instant petition is hereby dismissed as such. Needless to mention that, nothing observed here-in-above, would reflect, on merits of the case, in any manner, as the same has been so recorded for the limited purpose of deciding the present petition only.