

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

**Criminal Misc. M- 23271 of 2013**

Date of Decision : July 22, 2013

Rai Sahib

.....Petitioner

***VERSUS***

State of Punjab and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE T.P.S.MANN**

Present : Mr.Peeush Gagneja , Advocate  
for the petitioner.

**T.P.S. MANN, J. (Oral):**

Prayer made in the present petition filed under Section 482 Cr.P.C is for quashing of FIR No.134 dated 30.9.2010 under Section 304-A IPC registered at Police Station Sadar, Abohar, District Ferozepur, now District Fazilka on the basis of a compromise.

According to the FIR registered at the instance of Megha Singh, Lineman, on 23.9.2010 at about 11.47 AM, he alongwith Pala Ram, Lineman and Kuldeep Singh, Assistant Lineman, went for re-connecting electricity line. At that time, there was no supply of electricity. Pala Ram talked to Kuldeep Kumar, J.E, who instructed him to reach the place where there was a fault and start the repairing work. The supply from Patiala was already stopped. The complainant asked Paramjit Singh, S.S.A. on mobile about repairing A.P. feeder line meant for tubewells, who informed him that the said feeder had been switched off from Patiala at 11.40 AM till further orders and instructed to start the work after switching off. At this Pala Ram

switched off the line and climbed over the transformer. All of a sudden, the electricity started flowing in the transformer and as a result, Pala Ram suffered electric shock and fell down on the ground. Near that place was the Dhani of Rai Sahib son of Nathu Ram. Two transformers were installed at that Dhani. In one of the transformers, there is 24 hours electricity supply for domestic purpose, whereas there was only 8 hours supply for tubewells in the second transformer. He had connected the domestic line illegally with the tubewell line with the help of a wire which resulted in reverse supply and Pala Ram suffered electric shock and later on died. The accident was caused due to negligence of Rai Sahib. On the basis of the statement made by Megha Singh, Assistant Lineman, the aforementioned FIR was registered against the petitioner.

In the present petition, prayer has been made for quashing of the FIR on the basis of compromise. It has been stated that at the intervention of the Panchayat and respectables of the area, the matter between the petitioner, on the one hand and complainant Megha Singh, Assistant Lineman, on the other, stood compromised and a copy of the compromise dated 15.5.2013 has been annexed with the petition as Annexure P-2.

The stand of the petitioner that though the offence under Section 304-A IPC is not compoundable, yet in view of the law laid down by the Full Bench of this Court in Kulwinder Singh and others vs State of Punjab and another, 2007 (3) RCR (Criminal) 1052, the FIR can be quashed, is devoid of any merit. In the case of Kulwinder Singh and others (supra), it was held as under:

***“The power under Section 482 of the Cr.P.C. is to be***

***exercised Ex-Debitia Justitia to prevent an abuse of process of Court. There can neither be an exhaustive list nor the defined para-meters to enable a High Court to invoke or exercise its inherent powers. It will always depend upon the facts and circumstances of each case. The power under Section 482 of the Cr.P.C. has no limits. However, the High Court will exercise it sparingly and with utmost care and caution. The exercise of power has to be with circumspection and restraint. The Court is a vital and an extra-ordinary effective instrument to maintain and control social order. The Courts play role of paramount importance in achieving peace, harmony and ever-lasting congeniality in society. Resolution of a dispute by way of a compromise between two warring groups, therefore, should attract the immediate and prompt attention of a Court which should endeavour to give full effect to the same unless such compromise is abhorrent to lawful composition of the society or would promote savagery.”***

As is apparent from the FIR, it was the petitioner, who had connected the domestic transformer with the tubewell transformer with the help of wire which led to electricity starting to flow in the line and as a result, Pala Ram, Lineman, suffered an electric shock and died. The offence under Section 304-A IPC is, prima facie, established. Therefore, merely because the petitioner has entered into compromise (Annexure P-1) with Megha Singh, Lineman, who had lodged the FIR, is no ground to quash the same. The crime committed by the petitioner was not merely against a private individual but against the society at large. The offence under Section 304-A IPC has been made cognizable and not only the affected party but also anyone from the society could lodge the FIR. An identical question arose before the Hon'ble Apex Court in Manoj Sharma vs State and others, 2008 (4) RCR (Criminal) 827, wherein it was held as under:

***“There can be no doubt that a case under Section 302 IPC or other serious offences like those under Sections 395, 307 or 304B cannot be compounded and hence proceedings in those provisions cannot be quashed by***

*the High Court in exercise of its power under Section 482 Cr.P.C. or in writ jurisdiction on the basis of compromise. However, in some other cases, (like those akin to a civil nature) the proceedings can be quashed by the High Court if the parties have come to an amicable settlement even though the provisions are not compoundable. Where a line is to be drawn will have to be decided in some later decisions of this Court, preferably by a larger bench (so as to make it more authoritative). Some guidelines will have to be evolved in this connection and the matter cannot be left at the sole unguided discretion of Judges, otherwise there may be conflicting decisions and judicial anarchy. A judicial discretion has to be exercised on some objective guiding principles and criteria, and not on the whims and fancies of individual Judges. Discretion, after all, cannot be the Chancellor's foot.*

*I am expressing this opinion because Shri B.B. Singh, learned counsel for the respondent has rightly expressed his concern that the decision in B.S. Joshi's case (supra) should not be understood to have meant that Judges can quash any kind of criminal case merely because there has been a compromise between the parties. After all, a crime is an offence against society, and not merely against a private individual.*

The above indicated observations mutatis mutandis apply to the present case by providing complete answer to the problem in hand. Therefore, it would not be in the interest of administration of criminal justice to quash the FIR (Annexure P-1).

The instant petition is devoid of any merit and, therefore, dismissed.

However, nothing mentioned above may be treated to be an expression on the merits of the case.

July 22, 2013  
pds.

( T.P.S. MANN )  
JUDGE