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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 3226/2016**

S K JAIN

..... Petitioner

Through: **Mr. Vijay Singla, Advocate**

versus

STATE (NCT OF DELHI) & ORS

..... Respondent

Through: **Mr. Rajat Katyal, APP with Ms.
Ankita Goyal, Adv with SI Amit
Kumar, PS Keshav Puram**

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

09.11.2016

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Crl.M.A. No. 17478/2016

Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(CRL) 3226/2016

Issue notice. Notice is accepted on behalf of the State. Respondent nos.2 and 3 are present and accepts notice.

The petitioner has preferred the present writ petition to seek the quashing of FIR No.556/2016 under Section 304A IPC registered at PS Keshav Puram and the proceedings arising therefrom. The petition is premised on a settlement arrived at between the petitioner and respondent

nos.2 and 3 in mediation before the Delhi Mediation Centre, Rohini Courts on 26.08.2016. Under the settlement, the petitioner agreed to pay Rs.2.80 lacs in full and final settlement of all the claims of the widow of the deceased. The deceased was working in the factory of the petitioner which is a flour mill. According to the FIR, the job of the deceased was to inspect and supervise the work of checking as to whether dal is coming out or not from the kothyaar during the operation of the machine. He was also required to attend to the operation in case the flow of dal stopped. The accident occurred when the deceased was checking the flow of dal of kothyaar at the first floor.

The complainant found the deceased missing and his slippers were lying on the floor. The operation of the machine was stopped and the kothyaar was cut by using a gas cutter. It was then the deceased was found lying inside with his head down. The FIR alleges that the accused had not provided ventilator/ exhaust fan in the dal kothyaar and there were no safety measures put in place for the work. It also alleges that several times the petitioner was asked to get the exhaust fan installed so that air could pass in the dal kothyaar, but the same was not done. It is alleged that the accident took place on account of the negligence of the petitioner, as aforesaid.

In the aforesaid circumstances, I was not inclined to quash the FIR and the proceedings arising therefrom merely because a settlement has been reached, as aforesaid. The petitioner, who is present in court, however, submits that the accident took place for unknown reasons and nobody was a witness to the same. It is not clear as to how the deceased got into/ fell in the kothyaar. He submits that the petitioner is willing to compensate the widow and the minor child of the deceased by paying an additional amount such

that the total compensation paid by the petitioner – without taking into account the amount that she may receive from ESIC and other authorities, comes to Rs.7.50 lacs.

Respondent no.3, who is present in court, is also agreeable to the quashing of the FIR and the proceedings arising therefrom subject to the petitioner paying a total compensation of Rs.7.50 lacs. She admits that Rs.2.80 lacs already stands paid.

In view of the aforesaid, no useful purpose would be served in proceeding further with the FIR in question and the proceedings emanating therefrom. The same are hereby quashed subject to the petitioner making payment of balance amount of Rs.4.70 lacs to the widow of the deceased i.e. respondent no.3 by pay order within two weeks. The pay order shall be delivered to respondent No.3 in the presence of the I.O. and whereafter the case shall be closed.

Petition stands disposed of.

VIPIN SANGHI, J

NOVEMBER 09, 2016

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