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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 13.10.2015

W.P.(CRL) 2312/2015 & CRL.M.A. 15162/2015

ORIENTAL SERVICES PVT LTD

..... Petitioner

Through: Mr Abdhesh Chaudhary and Mr Sanjit
Kumar, Advocates.

versus

STATE OF NCT OF DELHI & ORS

..... Respondents

Through: Ms Richa Kapoor, Addl. Standing
Counsel (Crl.) with SI Satyapal Singh,
PS- Sahahbad Dairy.

Mr V.K.Jha, Advocate for R-2 to R-6.

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

1. The present is a petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 seeking

quashing of FIR No.862/2014 under Section 304A IPC registered at Police Station- Shahbad Dairy and the proceedings arising therefrom.

2. The subject FIR was registered on account of the accidental death of one Shyam Nath Pandey a contractual operator working in a wire company who had gone to withdraw money from a Union Bank of India's ATM located at Village Holambi Kalan, Delhi and was found dead at the entry of the ATM kiosk on 02.08.2014.

3. The police registered the subject FIR against the petitioner on account of the latter operating as the service provider to the said ATM kiosk.

4. The cause of death of the Late Shyam Nath Pandey is stated to be electrocution. Admittedly, on the day he met his unfortunate end there had been incessant rain. The charge sheet in the subject FIR has not been filed as yet.

5. Counsel appearing on behalf of the petitioner states that without prejudice to their rights and contentions that they are not named in the subject FIR and that the present is not a case where any negligence has been alleged against them, they approached Smt. Gyatri Pandey, the widow of the

said Shyam Nath Pandey (victim) so as to provide succour to her in her time of need. The said Shyam Nath Pandey is survived by his widow, mother and three minor children.

6. The petitioner on the one hand and the legal heirs of the deceased Shyam Nath Pandey on the other have entered into a Memorandum of Understanding (MOU) dated 08.10.2015. The terms of the said MOU dated 08.10.2015 are as under:-

“1. That it has been mutually decided that the matter should be compromised and the First Party No.1 hereby acknowledges the amount of Rs.10,00,000/-(Rupees Ten Lakhs) as full and final settlement (hereinafter referred to as “Settlement Amount”) , which will be paid by the Second Party vide DD/Pay Order drawn in favour of Gyatri Pandey as herein under before the Hon’ble High Court at the time of Quashing of the FIR No.862/14, PS: S.B.Dairy:

<u>Drawn on</u>	<u>DD No.</u>	<u>Dated</u>	<u>Amount</u>
ICICI Bank 5501		07.10.2015	Rs.10,00,000/-

2. That the aforesaid settlement amount is being received by Smt. Gyatri Pandey for and on behalf of her children and her mother-in-law and would be utilized for their beneficial welfare. The said settlement amount is being received by the First Party against all claims, which has arisen or would arise due to FIR No. 862/2014, complaint before the NHRC, New

Delhi, W.P.(C) No.9041/2014, complaint before the concerned Metropolitan Magistrate Shri Sachin Gupta, Rohini Courts or any ancillary proceedings thereto.

3. That the First Party undertakes to facilitate in quashing of the FIR no.862/2014 lodged with PS Sahabad Dairy and agrees to extend her fullest, whole-hearted and unconditional support and co-operation to the Second Party in quashing the FIR in a competent court of Law, without any demur, protest or objection or without making any further demand whatsoever at any point of time.
3. That the First Party agrees to extend all possible co-operation in getting the proceeding dropped/withdrawn/quashed against the Second Party and any other entity and shall give statement(s), affidavits, depositions etc., in support thereof as may be required from time to time.
4. That the First Party filed a writ petition being W.P.(C) No.9041/2014 before the Hon'ble High Court of Delhi at New Delhi for compensation. The First Party with the receipt of the aforesaid Settlement Amount in full & final settlement of their claims arising out of the said accident shall withdraw the said Writ Petition as having been satisfied without any demur or protest. It is agreed that with the receipt of the aforesaid Settlement Amount, the

Writ Petition shall be construed as withdrawn for all intents and purposes.

5. That the First Party has also filed two complaints, the first one with the National Human Rights Commission, New Delhi (“NHRC”) and the second one before the concerned Metropolitan Magistrate Shri Sachin Gupta, Rohini Courts, Delhi for monitoring and progress regarding the investigation in the FIR No.862/14, PS: S.B.Dairy. The First Party hereby undertakes to withdraw both the complaints and with the receipt of the aforesaid Settlement Amount, both the complaints shall be construed as withdrawn for all intents and purposes.
6. That the First Party represent that they are competent to enter into the present settlement and the present full & final settlement is towards all claim/compensation/damages, cases etc., which the First Party may have against the Second Party and/or its Employer M/s Financial Software and Systems (P) Ltd., (“FSS”) and/or the Union Bank of India.
7. That the First Party assures that there would be no claim of whatsoever nature from any parties qua the deceased person and that the First Party namely Mrs. Gyatri Pandey (wife), Master Harsh (Minor Son), Master Ashu (Minor-son) and Baby Santhosi (Minor-Daughter) are the only legal heirs of the deceased Shyam Nath Pandey.

8. That in terms of this mutual compromise no grievance whatsoever remains between the Parties and both Parties undertake not to file any case of any kind towards recovery, damages, compensation, etc. against each other and the said matter would set at rest between the Parties for all times to come.
9. That this Agreement has been explained to the First Party No.1 Namely Smt. Gayatri Pandey, in her own language and the contents have been read over to her by her real brother-in-law/Dever (Mr. Ghanshyam pandey or the brother of the deceased, who is the authorized representative for and on behalf of his mother Smt. Kaushlya Devi. Further, Kaushalya Devi has agreed that the draft of Rs. 10 Lakhs may be drawn in favour of her daughter-in-law Smt. Gyatri Pandey”

7. In pursuance to the said MOU dated 08.10.2015 a sum of Rs.10,00,000/- by way of a demand draft bearing No.5501 dated 07.10.2015 drawn on ICICI Bank has been handed over to Smt. Gyatri Pandey in court today.

8. The widow Smt Gyatri Pandey as well as mother Smt Kaushlya Devi of the deceased Shyam Nath Pandey, are present in court and have been duly identified by IO in the subject FIR SI Satyapal Singh, PS- Sahahbad Dairy,

state that in view of the compensation given to them by the petitioner they are no longer keen to proceed with the subject FIR and the proceedings arising therefrom.

9. There is no gainsaying the fact that the deceased did not belong to an affluent section of society. Further it is an admitted position that the deceased was the sole breadwinner in the family. The compensation is like manna from heaven in their hour of need and offers some solace to the bereaved family.

10. In view of the foregoing since the settlement between the parties in the afore-stated circumstances would enure to the benefit of the impoverished family of the victim, in my view it is necessary and expedient to formalize the said settlement. This will also obviate the necessity for the family of the deceased to institute and prosecute a long drawn-out proceeding in order to receive compensation. It is, therefore, in the interest of justice for this court to give its imprimatur to this settlement.

11. Resultantly, FIR No.862/2014 under Section 304A IPC registered at Police Station- Shahbad Dairy and the proceedings arising therefrom are hereby set aside and quashed qua the petitioner subject to its depositing a

sum of Rs.50,000/-(Rupees Fifty Thousand) with the Victims Compensation Scheme, Government of NCT of Delhi, within a period of two weeks from today. The receipt of the deposit be furnished to the IO in the subject FIR.

12. With the above directions the writ petition is disposed of.

OCTOBER 13, 2015
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SIDDHARTH MRIDUL, J

