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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 12.02.2016

W.P.(CRL) 439/2016

SANJEEV BANSAL & ANR.

..... Petitioners

Through: Mr. Sumit Bansal and Mr. Pankaj
Gupta, Advocates.

versus

STATE OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Rajesh Mahajan, ASC with Ms.
Parul Jamwal, Advocate for State.
SI Jhabbu Ram, PS Kirti Nagar.

CORAM:
HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

CRL.M.A. 2377/2016 (Exemption)

Exemption is allowed subject to all just exceptions.

The application stands disposed of.

W.P.(CRL) 439/2016

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

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quashing of FIR No.208/2015 under Section 288/304A IPC registered at Police Station- Kirti Nagar and the proceedings arising therefrom.

2. The subject FIR came to be registered on account of the accidental death of Brijesh, son of Mr. Kailash Verma the petitioner herein who was working as a security guard at a construction site where a building is being erected by the petitioners herein. The cause of death of Brijesh was opined to be a head injury occasioned by the collapse of boundary wall at the construction site. The petitioners who are the accused in the subject FIR on the one hand and the father of the deceased victim namely Mr. Kailash Verma the petitioner herein have entered into a settlement as is apparent from the affidavit authored by the latter and filed along with present petition.

The contents of the said affidavit are as under:-

“ I, BINOD KUMAR SINGH, S/O SH. MAHINDER SINGH, R/O B-II/3, RAGHUBIR NAGAR, NEW DELHI – 110027, do hereby solemnly affirm and declare as under:

1. That I am Indian citizen by birth.
2. That I am residing above said address
3. That I am the contractor for the bearing C-1/12, RAJOURI GARDEN, NEW DELHI-110027.
4. That the KAILASH VERMA S/O PYARE LAL VERMA was working as a labor this site
5. That KAILASH VERMA Son name is BRIJESH KUMAR VERMA

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6. That one day BRIJESH KUMAR VERMA entered the site and he met with an accident and passed away
7. That I am paying KAILASH VERMA as full and final settlement of sum of rupees 3,50,000/- (Three Lac Fifty Thousand Only)
8. That at the time paying him 1,00,000/- in Cash and 2,50,000/- (vide cheque no.000078 Dated 7/4/2015)
9. That KAILASH VERMA has accepted the above payment against withdrawal of all charges.
10. There is no criminal case against me, owner or any third person and accident case has no challan is pending as per KAILASH VERMA
11. That KAILASH VERMA has accepted to withdraw F.I.R. against the same
12. That it is my true and correct statement.”

3. In a nutshell, the petitioners have paid the petitioner (complainant), a sum of Rs. 3,50,000/- as compensation. In addition thereto a sum of Rs. 1,50,000/- (rupees one lack fifty thousand only) has been handed over to the petitioner (complainant) in Court today. He acknowledges receipt thereof.

4. The petitioner (complainant) who is present in court and has been duly identified by IO in the subject FIR SI Jhabbu Ram, Police Station-Kirti Nagar, states that in view of the compensation given to him by the petitioner he is no longer keen to proceed with the subject FIR and the proceedings arising therefrom.

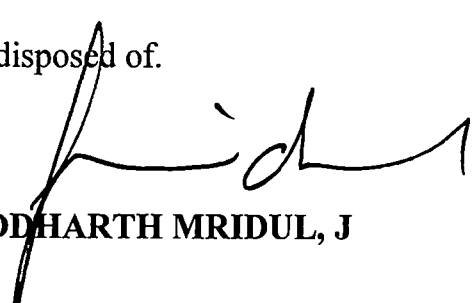
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5. There is no gainsaying the fact that the family of the deceased victim belongs to the poor strata of society. Further it is an admitted position that the petitioner (complainant) is a poor watchman who is the sole breadwinner in a family consisting of his wife and another minor son. Although no amount of compensation will provide succor and solace to the bereaved family, the present settlement will 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 in this backdrop that it is considered just and necessary for this Court to give its imprimatur to this settlement.

6. Resultantly, FIR No.208/2015 under Section 288/304A IPC registered at Police Station- Kirti Nagar and the proceedings arising therefrom are hereby set aside and quashed qua the petitioners subject to each one of them depositing a sum of Rs.50,000/- (Rupees Fifty Thousand) to the complainant, within a period of two weeks from today. The receipt of the deposit be furnished to the IO in the subject FIR.

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

FEBRUARY 12, 2016
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SIDDHARTH MRIDUL, J