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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 2385/2016

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Decided on: 11th July , 2016

SARANSH MACHAN

..... Petitioner

Represented by: Mr. Deepak Bastha, Adv.

versus

STATE & ORS.

..... Respondent

Represented by: Mr. Vinod Diwakar, APP with
ASI Mohan PS Bharat Nagar.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

Crl.M.A. 10175/2016

Exemption allowed subject to just exceptions.

CRL.M.C. 2385/2016

1. By the present petition the petitioner seeks quashing of FIR No. 319/2010 under Section 279 and 304A IPC registered at PS Bharat Nagar involving a road traffic accident of Smt. Satveeri Devi @ Satto resulting in her death. Smt. Satveeri @ Satto was the wife of respondent No.2 and the mother of respondent No.3 to 9. The petitioner seeks quashing on the ground that the matter has been settled with the respondents No. 2 to 9 vide the compromise agreement dated 2nd March, 2016 wherein the petitioner has agreed to pay a total sum of ₹45,000/- besides a sum of ₹5,59,000/- received by them from the insurance company pursuant to an award passed by the MACT Rohini Courts, Delhi.

2. Learned counsel for the petitioner submits that for an offence punishable under Section 304 IPC the maximum sentence that can be awarded is imprisonment for a period of two years and the offence not being serious in view of the decision of the Supreme Court in Gian Singh Vs. State of Punjab (2012) 10 SCC 303, the present FIR be quashed as the parties have amicably resolved their disputes. Learned counsel for the petitioner relies upon a decision of this Court in CRL.M.C.443/2016 decided on 10th May, 2016 titled as 'Neeraj Vs. The State and Anr.' wherein in a case of road traffic accident this Court has quashed the FIR as the parties have settled the matter.

3. Heard learned counsel for the petitioner and learned APP for the State.

4. It is undisputed that if the offence alleged is not serious and parties have resolved the differences the High Court has inherent power under Section 482 Cr.P.C. to quash the FIR to secure the ends of justice even for offences which are not compoundable under Section 320 Cr.P.C. The decisions relied upon by the learned Single Judge in the case of Neeraj (supra) do not deal with quashing of FIR under Section 304A IPC on the basis of compromise.

5. The issue before this Court is whether in view of the pronouncement by the Supreme Court in the case of Dalbir Singh Vs. State of Haryana AIR 2000 SC 1677 and State of Punjab Vs. Balwinder Singh AIR 2012 SC 861 this Court can hold that the nature of offence punishable under Section 304A IPC is not serious and the FIR can be quashed on the basis of compromise.

6. In Dalbir Singh (supra) the Supreme Court on a plea taken by the convict that he be released on probation held:

“13. Bearing in mind the galloping trend in road accidents in India and the devastating consequences visiting the victims and their families, criminal courts cannot treat the nature of the offence under Section 304-A IPC as attracting the benevolent provisions of Section 4 of the PO Act. While considering the quantum of sentence to be imposed for the offence of causing death by rash or negligent driving of automobiles, one of the prime considerations should be deterrence. A professional driver pedals the accelerator of the automobile almost throughout his working hours. He must constantly inform himself that he cannot afford to have a single moment of laxity or inattentiveness when his leg is on the pedal of a vehicle in locomotion. He cannot and should not take a chance thinking that a rash driving need not necessarily cause any accident; or even if any accident occurs it need not necessarily result in the death of any human being; or even if such death ensues he might not be convicted of the offence; and lastly, that even if he is convicted he would be dealt with leniently by the court. He must always keep in his mind the fear psyche that if he is convicted of the offence for causing death of a human being due to his callous driving of the vehicle he cannot escape from a jail sentence. This is the role which the courts can play, particularly at the level of trial courts, for lessening the high rate of motor accidents due to callous driving of automobiles.”

7. Thus the Supreme Court held that benevolent provision of Section 4 of the Probation of Offenders Act (in short PO Act) which was to be used considering the circumstances of the case including the nature of the offence and the character of the offender, could not be utilized for an offence punishable under Section 304A IPC.

8. Thereafter in State of Punjab (supra) again Supreme Court noting the gravity of the offence punishable under Section 304A IPC reiterated the law laid down in Dalbir Singh (supra) and also noted the decision in B. Nagabhushanam Vs. State of Karnataka (2008) 5 SCC 730. In the light of

the decisions as noted above this Court is of the considered view that it would not be in the interest of justice to quash a FIR for offence punishable under Section 304A IPC involving a road traffic accident on the basis that the parties have settled the matter.

9. Petition is accordingly dismissed.

(MUKTA GUPTA)
JUDGE

JULY 11, 2016
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