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

+ **CRL.M.C. 2986/2016**

BALBIR

..... Petitioner

Represented by: Mr. Pawan Sharma, Advocate.

versus

STATE & ORS

..... Respondents

Represented by: Mr. Kewal Singh Ahuja, APP
for the State with ASI Tej Ram,
PS Najafgarh.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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22.08.2016

Crl.M.A. No. 12814/2016 (Exemption)

Allowed, subject to all just exceptions.

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1. By the present petition the petitioner seeks quashing of FIR No. 178/2010 under Sections 279/304A/465/468/471/474/120B/24 IPC registered at PS Najafgarh, Delhi on the ground that the petitioner has settled the matter with respondent Nos. 2, 3 and 4.

2. The above noted FIR was registered on the complaint of respondent No.2 who stated that on 23rd April, 2010 at about 2.45 PM he along with Praveen were talking to each other near Nand Vatika, Dichaon Kalan, Najafgarh, Delhi. Praveen started his motorcycle bearing No.DL 6S 6332 stating that he was going to take a form for a job whereafter he was run over

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by a Tata 407 No. HR-67-4132 driven at a high speed in a negligent manner by the petitioner herein. The petitioner was apprehended at the spot and Praveen was taken to the hospital where he was declared brought dead. Respondent Nos. 3 and 4 in the present petition are the mother and father of the deceased Praveen.

3. The issue before this Court is whether a FIR for offence punishable under Section 304A IPC can be quashed on the basis of the compromise between the parties.

4. Learned counsel for the petitioner relying upon the decision of the Supreme Court reported as 2012 (10) SCC 303 Gian Singh vs. State of Punjab states that since the parties have resolved their disputes amicably and the maximum sentence that can be awarded to the petitioner would be an imprisonment for a period of two years, thus the FIR and the proceedings pursuant thereto be quashed.

5. This Court in Crl.M.C. No.2385/2016 titled as Saransh Machan vs. State & Ors. decided on 11th July, 2016 (MANU/DE/1640/2016) relied upon the two pronouncements of the Supreme Court reported as AIR 2000 SC 1677 Dalbir Singh vs.State of Haryana and AIR 2012 SC 861 State of Punjab vs. Balwinder Singh held:

“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 Dabir 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.

6. Following the decision in Dalbir Singh (supra) and State of Punjab vs. Balwinder Singh (supra) the present petition is dismissed.

MUKTA GUPTA, J.

AUGUST 22, 2016

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