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

+ **W.P.(CRL) 3078/2016**

NARESH KUMAR SINGH

..... Petitioner

Through: Mr. Naresh, Advocate.

versus

STATE & ORS

..... Respondents

Through: Mr. Rajesh Mahajan, ASC along with
ASI Rakesh Kant, PS - Kirti Nagar,
for the State.
Respondents No.2 to 4 in person.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER
24.10.2016

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Crl. M.A. No. 16501/2016

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(CRL) 3078/2016

Issue notice. Mr. Mahajan accepts notice on behalf of the State. Respondents No.2, 3 & 4 are present in Court and they accept notice. They are identified by the IO, who is also present in Court.

This petition has been filed by the petitioner to seek quashing of FIR No.355/2016 registered under Section 288/ 304 A IPC at PS – Kirti Nagar

on the basis of the settlement arrived by the petitioner accused and the LR's of the deceased/ victim. Respondent No.2 is the complainant on the basis of whose complaint the FIR in question came to be registered. The petitioner is the contractor, who was undertaking construction work at a construction site situated at B-11, Kirti Nagar, New Delhi. For the said work, he had engaged the complainant and the deceased to carry out the civil work. As per the allegations made in the FIR, the deceased fell off the third floor while tying pads for doing plaster work on the third floor. As per the FIR, the said work was being got done by the petitioner without providing any safety equipment or safety net. The deceased had gone to tie the pad when and while tying the pads by climbing the wall, the rope suddenly got opened and he fell down from third floor and died. From a perusal of the FIR in question it cannot be said that the same does not disclose any culpability on the part of the petitioner. The petitioner being the contractor, who had engaged the labour, including the victim in question to carry out the work, was obliged to provide sufficient safety measures. As to whether, or not, he had done so, would be a matter of trial.

This Court has already taken the view that in such like cases the FIR cannot be quashed merely on account of settlement having been arrived at between the accused and the complainant/ LR's of the deceased in ***Bhajan Lal Sharma Vs. State (Govt. of NCT Delhi) & Others***, 2016 SCC OnLine Del 4234. Mr. Mahajan has also placed reliance on another judgment of Punjab & Haryana High Court in ***Baldev Singh Vs. State of Punjab & Another*** decided on 02.06.2016 in CRM No. M-40769/14.

In view of the aforesaid circumstances, merely because a settlement has been reached between the petitioner and respondents No.2 to 4, is no

reason to quash the FIR in question at this stage.

The petition is dismissed.

OCTOBER 24, 2016

B.S. Rohella

VIPIN SANGHI, J