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

+ W.P.(CRL) 1591/2015

HEMANT CHAWLA & ANR

..... Petitioners

Through: Mr.Prerak Kakkar, Advocate

versus

THE STATE (NCT OF DELHI) & ORS

..... Respondents

Through: Mr.Ashish Aggarwal, A.S.C. for the
State with Mr.Piyush Singhal, Adv.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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09.02.2016

W.P.(CRL) 1591/2015

1. By filing the present writ petition, the petitioners have invoked the jurisdiction of this Court under Articles 226/227 of the Constitution of India read with Section 482 Cr.P.C. with the prayer that FIR No.325/2015 registered under Sections 287/304-A IPC, P.S. Sarojini Nagar, Delhi and the proceedings arising therefrom may be quashed in view of the settlement with the legal heirs of the deceased Ashok Kumar.

2. The FIR in question has been registered on the basis of statement made by Sh.Bablu Sharma who was working as mason at the construction site i.e. 47, Aradhna Enclave, Sector-13, R.K.Puram. At the construction site Ashok Kumar was also working. On 6th May, 2015 at about 6:45 p.m. when Ashok Kumar was pouring water in the building material, electric motor was on and he was electrocuted. Ashok Kumar was removed to Kapoor Hospital,

Narayana Vihar where he was declared brought dead. The complainant Bablu Sharma also stated that electric water motor was used to be run with naked electric wire, which was very dangerous and this fact was brought to the notice of the site supervisor Vikash Kumar as well contractor Hemant Chawla number of times to which they did not pay heed and asked them to continue working with the same wire. Consequently, Ashok Kumar was electrocuted due to negligence of the site supervisor and contractor for not taking safety measures at the construction site. On the basis of the statement made by Bablu Sharma, FIR in question was registered.

3. Immediately after the death of Ashok Kumar, a settlement was entered into with the legal heirs of the deceased for a sum of ₹4.5 lakhs out of which ₹ 75,000/- was paid when the dead body of Ashok Kumar was taken for cremation. Balance amount of ₹ 3,75,000/- was to be paid in the form of bank draft in the name of Manisha Devi, wife of the deceased at Police Station Sarojini Nagar in the presence of SHO and the IO.

4. When the petition came up for hearing for quashing of the FIR, father and widow of the deceased with three months old female child were present in the Court. The amount of compensation being found insufficient, again the parties discussed for enhancement of compensation and agreed for ₹ 6.5 lakhs to be paid to the legal heirs of the deceased i.e. father, widow and three months old daughter.

5. Learned counsel for the petitioners submits that out of total compensation of ₹ 6.5 lakhs, the wife of the deceased has already been paid ₹ 4,44,000/- by depositing the amount in her account and ₹ 75,000/- was paid at the time of cremation of Ashok Kumar. The amount of ₹ 1,30,000/- has been deposited in the account of the father of the deceased and the

Odeficient amount of ₹1,000/- has been paid today in cash to Manisha Devi, wife of the deceased.

6. The father and the widow of the deceased, who are present in person, submit that they have left with no grievance whatsoever and do not want to continue any criminal proceedings in case FIR No.325/2015 registered under Sections 287/304-A IPC, P.S. Sarojini Nagar, Delhi.

7. The FIR registered against the present Petitioners is for committing the offences punishable under Sections 287/304-A IPC. Offence punishable under Section 287/304-A IPC is a non-compoundable offence. In the decision in the case of **Gian Singh v State of Punjab & Anr. 2012 (9) SCALE 257**, the three Judges Bench of the Supreme Court dealing with the issue of quashing of FIR has observed as under:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences Under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that

capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil favour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

8. In view of the legal position laid down in *Gian Singh's case* (Supra) and amicable settlement arrived at between the parties, I am of the considered view that no useful purpose would be served by continuing the criminal proceedings against the petitioners, which will only be an exercise in futile and wastage of precious time of the Court.

9. Accordingly, the petition is allowed and FIR No.325/2015, under Sections 287/304-A IPC, P.S. Sarojini Nagar, Delhi and consequential proceedings arising therefrom are hereby quashed.

10. It is directed that out of compensation amount paid to Manisha Devi, ₹ 1.5 lakhs will be kept in FDR for the benefit of minor daughter, who is

aged about three months, for a period of 18 years. The FDR so prepared shall be in the name of the minor child with her mother as guardian.

11. Registry is directed to send the copy of this order to SBI, Pratapganj, Supaul District, Bihar as copy of the passbook of Manisha Devi shows that after the amount of compensation was transferred in her account there is huge withdrawal of the amount from her account.

Order dasti.

CRL.M.A.10983/2015

Dismissed.

PRATIBHA RANI, J.

FEBRUARY 09, 2016

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