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

+ W.P.(CRL) 453/2017

SANJEET

..... Petitioner

Through: Mr. Sanjay K. Jha, Adv.

versus

STATE & ORS

..... Respondents

Through: Mr. R.S. Kundu, ASC.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **04.05.2017**

The petitioner seeks quashing of the FIR No.470/2016 dated 22.09.2016 (P.S Burari) instituted for the offences under sections 287 & 304A of the IPC.

The learned counsel for the petitioner has drawn the attention of this Court to the FIR lodged by respondent No.2, the father of the deceased. It is alleged that necessary care was not taken by the petitioner regarding the running of an electric equipment namely electric water motor for pumping out water, which actually led to the electrocution of his son, Sunil (deceased).

It has been submitted on behalf of the petitioner that he is a contractor and construction work was being carried out at a site in Burari. Water had accumulated at the site which was being pumped out by means of an electric motor. It is submitted that the son of the petitioner, being careless in

handling the motor, got electrocuted. Since the deceased was standing in water, electric current got conducted easily.

The learned counsel for the petitioner further submits that when the deceased had become unconscious after receiving electric shock, he was taken to Trauma Centre, Civil Lines where he was declared brought dead. The petitioner, taking into account the fact that he is distantly related to the respondent No.2 and the deceased, decided on his own to pay a total sum of Rs.2,50,000/- to the respondents No.2 to 4 (father, mother and wife of the deceased). Rs.1,50,000/- was paid in cash on 15.11.2016 and the petitioner is ready to pay the amount of Rs.1,00,000/- to the respondent No.2 in Court.

The balance amount of Rs.1,00,000/- has been handed over to the respondent No.2 in Court which he has accepted to his full satisfaction. Be it noted that a settlement deed also was executed in which it was agreed between the parties that no claim would be made after acceptance of the aforesaid amount. This Court has noticed that there was no intentional negligence on the part of the petitioner and it was only fortuitous that the deceased died of electrocution.

Opposing the quashing of the subject FIR, learned counsel for the State submitted that in ***Bhajan Lal Sharma vs. State (Govt. of NCT of Delhi), 2016 SCC online Delhi 4234***, a bench of this Court has held that in ***Narinder Singh and Ors vs. State of Punjab and Anr, 2014(2) Crimes 27 (SC)***, the Supreme Court had observed that the power to quash the criminal proceedings in cases which are not compoundable should be exercised sparingly and with caution. The guiding factor in such cases would be to secure the ends of justice, or to prevent abuse of the process of any Court.

Since in Bhajan Lal Sharma (Supra), neither of the aforesaid two objectives would have been achieved, the FIR was refused to be quashed. The Court while deciding the issue took note of the fact that construction work in the basement had been carried out by a building contractor without observing necessary safeguards which led to the collapse of the entire building. In Bhajan Lal Sharma (Supra) one labourer was killed and many others were injured. The Court, therefore, was of the view that the accident was not providential and had occurred because of lack of precaution.

No parallel could be drawn with the facts of the present case. There was no collapse of the building. It was only while pumping out water from the building site that one of the labourers, the deceased, got electrocuted. All precautions of insulating the wires were observed. It was only unfortunate that the deceased got electrocuted. Considering the fact that the petitioner had taken all precautions and has also compensated the family of the deceased to their full satisfaction, this Court is inclined to quash the first information report.

In ***Gian Singh vs. State of Punjab & Another, (2012) 10 SCC 303***, the Supreme Court has held that cases which are not compoundable under Section 320 of the Cr.P.C. could also be quashed, when continuation of any criminal proceeding would be an exercise in futility and where justice demands that the dispute between the parties should be put to an end and peace is restored. But ending of such criminal proceedings could only be ordered for securing the ends of justice.

The Supreme Court has further observed in Gian Singh vs. State of Punjab & Another (Supra):

“58..... No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.”

[Refer to B.S. Joshi, (2003) 4 SCC 675; Nikhil Merchant, (2008) 9 SCC 677 and Manoj Sharma, (2008) 16 SCC 1.]

Considering the aforesaid facts, the FIR No.470/2016 dated 22.09.2016 (P.S. Burari) instituted for offences under Sections 287/304A of the IPC and all the emanating proceedings therefrom are quashed.

The petition is disposed of in terms of the above.

ASHUTOSH KUMAR, J

MAY 04, 2017

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