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

+ W.P.(CRL) 602/2017

MAHESH CHAND AGGARWAL Petitioner

Through Mr. Ravi Mehta, Adv. with Mr. Ram

versus

STATE (NCT OF DELHI) & ANR. Respondents

Through Mr. R.S. Kundu, ASC with Mr. Ankit
Kr. Gulia, Adv.
Insp. Sanjeev Kumar ASI Bhola Ram
PS Harsh Vihar.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **24.05.2017**

The petitioner seeks quashing of the FIR No.535/2015 dated 19.10.2015 (PS Harsh Vihar) instituted for the offence under section 304A of the IPC.

The deceased died of electrocution. The dead body was found to be electrocuted in the morning because of a fan which was not in a proper condition. The petitioner happens to be a tent merchant and the deceased had joined him only a day before.

It has been pointed out on behalf of the petitioner that considering the poverty of the deceased and the fact that he had old parents to look after, the petitioner agreed for paying a sum of Rs.4,30,000/- towards full and final settlement of all the claims.

It has further been pointed out that during the course of settlement

talks before the Deputy Labour Commissioner, an agreement was effected and pursuant to that agreement, two demand drafts for the amount of Rs.4,30,000/- (in all) were deposited with the Deputy Labour Commissioner which, as the court has been informed, was invested in an FDR, with an understanding that once the FIR is quashed, the money would be released to the mother of deceased who is respondent no.2 in the present petition.

Apart from the above, the petitioner has also given a draft of Rs.50,000/- vide DD No.058110 dated 22.05.2017 drawn on Bank of Baroda to the respondent no.2 today in the Court.

The petitioners have been identified by his counsel.

Taking into account the aforesaid facts, this Court has been persuaded to quash the subject FIR. While saying so, this Court has taken note of the fact that there was no insistence upon the deceased to sleep in the tent or to live in the godown or to fix the electric fan. Whatever was possible for the petitioner for recompensing the family of the deceased, has been done at the behest of the petitioner.

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.]

For the reasons afore recorded, the FIR No.535/2015 dated 19.10.2015 (PS Harsh Vihar) instituted for the offence under section 304A

of the IPC and all the proceedings emanating therefrom are quashed.

It is also directed that the money which is lying with the Deputy Labour Commissioner, Jhilmil Colony, Delhi, be released in favour of respondent no.2 forthwith.

The petition is disposed of in the above mentioned terms.

Dasti.

ASHUTOSH KUMAR, J

MAY 24, 2017

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