

\$~33

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

+ CRL.M.C. 263/2018

DEVENDER YADAV & ANR

..... Petitioners

Through: Mr. Praveen Rishi & Mr. Sumeet
Sharma, Advocate.

versus

STATE & ORS

..... Respondents

Through: Mr. Sanjeev Sabharwal, APP for State
with SI Hardeep, PS Bhalswa Dairy.
Mr. Yogesh Ramola, Adv for R-2, 3
& 4.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

%

02.04.2018

Vide the present petition, the petitioners seek quashing of the FIR No. 751/15, PS Bhalswa Dairy under Section 304A of the Indian Penal Code, 1860 and the final report under Section 173(2) of the Cr.P.C submitted pursuant thereto and all consequential proceedings emanating therefrom, it having been submitted to the effect that a settlement has since been arrived at between the petitioners and the respondent nos. 2 to 4.

As per the averments put forth through the petition, the deceased Pappu was electrocuted on 08.11.2015 whilst working and had become unconscious and thereafter had been admitted to the Max Hospital, Shalimar Bagh where he was given medical treatment and then referred to the Safdarjang Hospital with an FIR thereafter having been

registered under Section 288 of the Indian Penal Code, 1860, PS Bhalswa Dairy and after his demise on 09.11.2015 due to electrocution, Section 304A of the Indian Penal Code, 1860 was added against the petitioners.

It has been submitted also that all the expenses that were incurred at the Hospital were borne by the petitioner no. 1 to the tune of Rs. 25,000/- and apart from the same, petitioner no. 1 had also given an amount of Rs. 10,000/- to respondent nos. 2-4 towards the performance of the funeral rites qua Pappu, employee of the petitioner no. 2, Mr. Rameshwar. The status report dated 23.03.2018 submitted under the signatures of Inspector Devender Singh, PS Bhalswa Dairy is to the effect that the deceased Pappu worked as a labourer for petitioner no. 2 as a stone mason, that the petitioner no. 1, Mr. Devender was the owner of the building who had taken the injured to the Max Hospital whereafter the injured had been referred to the Safdarjang Hospital on 09.11.2015 and had been declared dead during the treatment. The status report indicates further that the statement of the father of the deceased Sh. Lalu Prasad who has been arrayed as respondent no. 2 was recorded in which he stated that his son working with the contractor named Mr. Rameshwar who is the petitioner no. 2 herein at Khasra 551 near PS Bhalswa Dairy and many times his son had told him that there was a danger at the place where he was working as there were electric wires passing out from there and that he had told about this to Mr. Rameshwar, i.e., the petitioner no. 2 that this place was dangerous but the deceased

continued with the work negligently. As per the status report on the record, the father of the deceased who has been arrayed as the respondent no. 2 also made allegation that his son's death was because of the petitioner no.1 & petitioner no. 2's negligence. The status report also indicates that the Electricity Inspector had also inspected the site and had reported that the provisions of the Central Electric Authority Regulations, 2010 had not been complied with by the owner of the said building and thus a report had been submitted in the Court and the report under Section 173 of the Cr.P.C., 1973 has already been submitted and that the matter is before the trial court for the date 04.05.2018.

As per the averments made in the petition, it has been submitted categorically to the effect that there was no culpable negligence on the part of the petitioners and that the petitioners and the respondent nos. 2 to 4 had amicably settled the matter and that the petitioner no. 1 has agreed to pay a sum of Rs. 5,50,000/- to the respondent nos. 2 to 4 towards the compensation and a Memorandum of Understanding dated 22.12.2017 had been arrived at between the parties. It has been submitted on behalf of the petitioner and indicated through the status report dated 22.03.2018 also placed on record under signatures of SHO, PS Bhalswa Dairy that of the settled amount which as per the report of the SHO is Rs. 5,25,000/- (qua which it has been submitted on behalf of the petitioners that mention of the said amount as Rs. 5,50,000/- in the petition is a typographical error and ought to be read as Rs. 5,25,000/-, which is also so indicated vide a compromise deed

dated 22.12.2017 on the record), of the same a sum of Rs. 1,75,000/- has already been paid to the respondent no. 2 and rest of the amount is to be paid in future by the petitioner no. 1.

Reliance is *inter alia* placed on behalf of the petitioners on the verdict of this Court in CRL.M.C.2779/15 to contend that in similar circumstances in relation to death by electrocution in relation to FIR no. 709/15, PS Narela there was the quashing of the FIR under Section 304A of the Indian Penal Code, 1860 had been permitted.

Reliance placed in relation thereto is apparently misplaced as per observations in the said proceedings dated 15.07.2015 which categorically indicate to the effect that it had been observed to the effect that there was no apparent negligence on the part of the petitioners. In the instant case, the averments made in the present petition are to the effect that there was no culpable negligence on behalf of the petitioners whereas the status report on the record submitted by the State states to the effect that the deceased had repeatedly been informing his father and that the petitioners had also been informed of there being apparent danger at the place of work where electric wires were passing out from there and despite the same, the same had not been rectified as per the report of the Electric Inspector also indicating that the provisions of the Central Electric Authority Regulations, 2010 had not been complied with.

Reliance that has thus been placed on behalf of the petitioners on the verdict of this Court in CRL.M.C. 2779/15 in “**PRADEEP**

KUMAR VS. STATE & ORS.” is wholly misplaced.

Reliance is also being placed on behalf of the petitioners on the verdict of this Court in **“MAHENDER SINGH VS. STATE (GNCT OF DELHI) & ORS.”** submitting to the effect that proceedings in relation to Section 287/304-A of the Indian Penal Code, 1860 in FIR No. 427/14 registered at PS Dwarka had been quashed submitting to the effect that the State had put forth its non-opposition to the prayer in view of the settlement arrived at between the parties. Undoubtedly, in the instant case, the status report indicates that a settlement has been arrived at between the parties. The status report also states and the submission made now on behalf of the State is also to the effect that the matter is left to the discretion of this Court. In the circumstances of the settlement arrived at between the petitioners and the respondent nos. 2 to 4 inasmuch as a sum of Rs. 1,75,000/- in terms of the Memorandum of Understanding executed between the petitioners and the respondent nos. 2 to 4, it is essential to observe however that the status report as already observed hereinabove spells out acts of negligence against the petitioners categorically and on behalf of the petitioners the said contentions of culpable negligence are repeatedly negated through the averments made in the petition which are apparently disputed questions of the fact which cannot be determined during the course of the present proceedings.

In view thereof, there is no ground to allow the prayer made by the petitioners and thus the present petition CRL.M.A.263/2018 seeking quashing of the FIR No. 751/15, PS Bhalswa Dairy under

Section 304A of the Indian Penal Code, 1860 and the charge-sheet thereunder and all consequential proceeding emanating therefrom are dismissed.

However, nothing stated herein above shall affect the merits or demerits of the Trial.

ANU MALHOTRA, J

APRIL 02, 2018
NC