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

DECIDED ON : MARCH 23, 2018

+ **W.P.(CrI.)870/2018 & CrI.M.A.5444/2018**

HITACHI PAYMENT SERVICES PVT.LTD. Petitioner

Through :

versus

STATE AND ORS. RespondentS

Through : Mr.Ranbir Singh Kundu, ASC with
Mr.PremSagar Pal and Ms.Suman
Saharan, Advocates.
SI Ranvir Singh, PS Burari.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (ORAL)

1. Present petition under Article 226 of the Constitution of India read with Section 482 Cr.P.C. has been filed for quashing of FIR No.664/2014 under Section 304-A IPC registered at Police Station Burari. Status report is taken on record.

2. Learned counsel for the petitioner urged that the matter has been settled with the legal heirs of the deceased. No useful purpose will be served to continue with the proceedings before the trial court. ₹6.5 lacs has been agreed to be paid to the legal heirs of the deceased and they have no objection to the quashing of the FIR. Reliance is placed on *Smt.Anita Maria Dias & Anr. vs. The State of Maharashtra & Anr.* in

Crl.A.No.199/2018 [@Special Leave Petition (Criminal) No.978/2017 @ Diary No.40579/2017] and Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Ors. vs. State of Gujarat & Anr. (2017) 9 SCC 641.

3. I have considered the submissions of the learned counsel for the petitioner and have examined the file. The occurrence took place on 09.08.2014. A charge-sheet has since been filed against one Rakesh Singh for commission of offence under Section 304-A IPC.

4. The present petition for quashing of FIR has been filed by the petitioner-Hitachi Payment Services Pvt.Ltd. through its authorized representative-Hayat Ali. The matter is stated to have been settled by the petitioner with the legal heirs of the deceased.

5. Since the settlement has not taken place with the accused Rakesh Singh, the FIR in question cannot be quashed qua him. The settlement is between Hayat Ali-the authorized representative of the petitioner and legal heirs of the deceased Durgpal. The accused in the FIR is not a party to the said Memorandum of Understanding dated 08.03.2018.

6. Present petition has now been filed by the petitioner for quashing of the FIR on the basis of settlement. The allegations against the accused Rakesh Singh in the FIR/charge-sheet have not been admitted in the petition. The petitioner's claim is that the petitioner was not at all at fault in the incident and there was no negligence on their part. Various discrepancies and inconsistencies in the case of the prosecution have been raised in the present petition. It is, however, stated that due to sympathy with the legal heirs of the deceased, ₹6.5 lacs are being paid in full and final settlement of the claims.

7. In my considered view mere payment of ₹6.5 lacs to the legal heirs of the deceased due to humanitarian approach is not a ground to quash the FIR in question against the accused Rakesh Singh. The prosecution has relied upon the report of Suresh Kumar Bukka, Assistant Electrical Inspector dated 17.11.2014 whereby *prima facie* it is observed that necessary precautions were not taken as a result of which the accident in which a young man lost his life, occurred. It was observed as under:

“At the time of inspection, the following provisions of the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010 had not been found complied with:-

1. The insulation resistance of electrical installation of the said ATM centre was found to be so low as to prevent safe use of energy in contravention of the provisions of regulation 33 91) (ii) of the said regulations in the following respect:

(a) The insulation resistance value of the electrical installation of the said ATM centre was found less than 1 MEGA OHM.

2. The electrical installation had not been found installed and maintained in such a manner as to ensure safety of human beings in contravention of the provisions of regulation 12(1) of the said regulations.”

8. Allegations against the accused Rakesh Singh under Section 304-A IPC are serious and grave. On payment of ₹6.5 lacs by the company to which he was attached is not a sufficient ground for quashing the FIR. The observation of this Court in *Bhajan Lal Sharma Vs. State*

(Govt.of NCT of Delhi) and Ors.2016 (158) DRJ 493 are relevant to note:

“32 In my view, quashing the FIR in question at this stage would certainly sent a very wrong signal not only to the petitioner, but the whole society at large and particularly to other builders, contractors and other agencies engaged in undertaking construction work, that even if they are grossly negligent in taking preventive measures so as to prevent predictable accidents-which may lead to serious injury and even loss of life, they could get away by paying some compensation to the heirs of the injured/deceased. In fact, such like contractors/ builders/agencies may find it more economical to risk the lives of their workforce, and in the eventuality of an accident occurring, to pay compensation, than to undertake all safety measures which, if taken, would prevent such accidents in the first place.

33.As observed by the Supreme Court in Sheonandan Paswan (supra), criminal proceedings are not a proceeding for vindication of private grievance. They are initiated for the punishment of the offender in the interest of the society. It is for maintaining stability and orderliness in the society that certain acts are constituted offences and the right given to any citizen to set the machinery of criminal law into motion for the purpose of brining the offender to book.

34.In A.R.Antuly Vs.Ramdas Srinivas Nayak & Anr., MANU/SC/0082/1984: (1984) 2 SCC 500, the Supreme Court held that punishment of the offender in society is in the interest of the society. It is one of the objects of the penal statues enacted for the larger good of the society.

35. I am of the view that quashing of criminal proceedings in the present case would create and set an

unhealthy precedent, and sent wrong signals to the society at large.

9. In view of the above discussion, this Court finds no sufficient ground to quash the FIR; it is dismissed. All pending application(s) also stand disposed of.

10. Observations in the order shall have no impact on the merits of the case.

**S.P.GARG
(JUDGE)**

MARCH 23, 2018/sa

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