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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 5th September 2018

+ CRL.M.C. 4382/2016

MADAN LAL Petitioner
Through: Mr. Gaurav Sharma, Advocate

versus

THE STATE (GOVT. OF NCT OF DELHI) & ORS.

..... Respondents

Through: Mr. Ravi Nayak, APP for the State
with SI Bachchan Singh, PS Keshav
Puram

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner is facing criminal prosecution in the case arising out of investigation into first information report (FIR) no.310/2015 under Sections 285 and 304A of the Indian Penal Code, 1860 (IPC) of police station Keshav Puram. The case involves the death of Nagraj, aged 50 years, who had succumbed to injuries suffered in an incident of fire in house no. 4273, Gali no.4, Jai Mata Market, Tri Nagar, Delhi in the evening of 07.05.2015. The case concerns the afore-mentioned offences allegedly committed by the petitioner, he having used the said property as a godown for stocking inflammable material (PVC goods), the fire incident statedly having

occurred due to neglect by certain acts of commission or omission on his part, the deceased having been housed inside the said property at the relevant point of time and suffering injuries which proved fatal.

2. By the present petition invoking the inherent power of this Court under Section 482 Cr. PC, prayer is made for the criminal case to be quashed on account of settlement with the second to sixth respondents, who are legal heirs of the deceased Nagraj.

3. The prayer in the petition is opposed strongly by the State, it referring to the gravity of the offence involved particularly the offence under Section 304A IPC, placing reliance on *Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another*, (2017) 9 SCC 641.

4. *Per contra*, the petitioner relies on *Mahender Singh Vs. State (GNCT of Delhi) & Ors.*, Crl. M.C. 512/2016, decided on 05.02.2016, a decision rendered by a learned single judge of this Court in bringing to a close another prosecution under Section 287 and 304A IPC.

5. In another similar petition concerning a case of death by rash or negligent act (*albeit* by driving of a motor vehicle on a public road) by an order passed today, while declining to exercise the inherent power under Section 482 Cr.P.C. to bring an end to the criminal process, this Court taking note of the rulings of the Supreme Court, *inter alia*, in *Gian Singh vs.*

State of Punjab, (2012) 10 SCC 303; *Narinder Singh and Ors. vs. State of Punjab and Anr.*, (2014) 6 SCC 466; *Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another*, (2017) 9 SCC 641; *State of Karnataka v. Muralidhar* (2009) 4 SCC 463 and certain others, has held thus:-

“19. The offence of rash driving of a motor vehicle on a public road is not directed against any specific individual. It exposes other users of the road – citizens in general – to wanton risk to their life, limb or property. The rising fatalities on public roads bring havoc to the victims, or their kith or kin, and create additional burden on the State and the society at large. Untimely loss of a precious human life not only brings immeasurable pain and suffering to the family that is left behind but, at times, loss of the bread earner resultantly throwing those dependent on him virtually on the road or at the mercy of doles of the civil society or State. As observed by the Supreme Court in *State of Punjab vs. Saurabh Bakshi*, (2015) 5 SCC 182, “(s)uch a crime blights not only the lives of the victims but of many others around them”. Recourse to the remedy of accident claim under the law is no solace. After-all, the legal process invariably takes time to deliver, such litigation being long winding and, at times, uncertain, particularly in cases where there is absence of valid insurance cover against third party risk. If the victim somehow survives with injuries, the trauma or aftermath of hurt is also not fully compensatable in terms of money.

20. We are a society wedded to the ethos of “rule of law”. The Constitution of India guarantees to every person on this soil the fundamental right to protection of life (Article 21). When a person moves on the public

road in exercise of his fundamental freedom to move, he legitimately expects the State to ensure that all others using the public space or way respect his right to do so without he being put to harm. It is the obligation of the State to ensure enforcement of strict discipline of the law. If such rights are breached, there is corresponding obligation on the court to ensure that consequences flowing from law follow.

21. *Unlike certain other jurisdictions, our jurisprudence does not adopt the policy of Islamic law principle of “blood money” (Diyat) as the answer to every wrongdoing. On the contrary, the Supreme Court has ruled that in striking the balance to take care of the “cry of the society” in grave crimes, “(m)oney cannot be the oasis” [Sumer Singh vs. Surajbhan Singh (2014) 7 SCC 323]. Against the reality that number of such cases of rash or negligent acts causing mayhem like death or grievous hurt (or permanent disability) have only been escalating over the years, allowing a lid to be put on the criminal prosecution on account of “settlement” into which the victim is persuaded to enter, in his or her anxiety, to receive some recompense, would erode the policy of the court to maintain the “deterrent element”, such latitude being a result of “misplaced sympathy”, having the potency to convey the undesirable impression that driving can be permitted to be a matter of frivolous “frolic”.*

22. *A case of such nature cannot be treated as merely a private dispute between two individuals – not the least for this court to exercise its inherent power to inhibit further judicial process. The jurisdiction under Section 482 Cr.PC, though couched in terms of “power” is actually a responsibility which has to be discharged carefully bearing in mind the guiding principles and to “secure the ends of justice” in which*

exercise societal interest must always be paramount. The liberal attitude in quashing such cases as of death or serious hurt due to rash or negligent acts would be, borrowing the expression from Muralidhar (supra), “result wise counter productive in the long run and against societal interest” and be in the teeth of the guidelines declared in Parbatbhai Aahir (supra).

6. Though the cause leading to the untimely death of the individual, which is the subject matter of the case at hand is not a motor vehicular accident but an incident of fire, the fact remains that the acts of commission or omission which led to the said incident stemmed *prima facie*, from culpable rashness or negligence. Thus, the above principles would squarely apply to the case of this nature as well inasmuch as it is the society at large which is impacted.

7. The offence committed by the petitioner in the present matter not only pertains to his acts of gross criminal negligence against one private individual whose death was caused in the consequence, but also to the interest of the society at large since he was found to have been using a property as a godown in a residential area for the purposes of storing highly inflammable goods (such as PVC) in substantial quantity that too, *prima facie*, without any safety measures in place and consequently putting all the neighbouring residents at high risk.

8. The dispute, in view of this court, not being one in the nature of “private” dispute between two individuals, in the foregoing facts and circumstances and having regard to the

gravity of the offences involved cannot be closed on mutual agreement. This court declines to bring an end to the criminal process.

9. The petition is dismissed.

R.K.GAUBA, J.

SEPTEMBER 05, 2018

Yg/nk

