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

+ W.P.(CRL) 2229/2017

SAURABH JHA

..... Petitioner

Represented by: None

versus

STATE & ORS

..... Respondent

Represented by: Mr. Piyush Singhal, Adv. for
Mr. Ashish Aggarwal, ASC for
State.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER
31.01.2018

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1. Despite pass-over none is present on behalf of the petitioner.
2. Even otherwise this petition seeks quashing of FIR No. 213/2016 under Sections 279/304-A IPC registered at PS Anand Vihar, New Delhi on the basis of compromise in a case where death has occurred due to prima facie rash and negligent act of the petitioner.
3. This Court in Crl.M.C. No.2385/2016 titled as Saransh Machan vs. State & Ors. decided on 11th July, 2016 (MANU/DE/1640/2016) relying upon the two pronouncements of the Supreme Court reported as AIR 2000 SC 1677 Dalbir Singh vs.State of Haryana and AIR 2012 SC 861 State of Punjab vs. Balwinder Singh held:

“5. The issue before this Court is whether in view of the pronouncement by the Supreme Court in the case of Dalbir

Singh Vs. State of Haryana AIR 2000 SC 1677 and State of Punjab Vs. Balwinder Singh AIR 2012 SC 861 this Court can hold that the nature of offence punishable under Section 304A IPC is not serious and the FIR can be quashed on the basis of compromise.

6. In *Dabir Singh* (supra) the Supreme Court on a plea taken by the convict that he be released on probation held:

“13. Bearing in mind the galloping trend in road accidents in India and the devastating consequences visiting the victims and their families, criminal courts cannot treat the nature of the offence under Section 304-A IPC as attracting the benevolent provisions of Section 4 of the PO Act. While considering the quantum of sentence to be imposed for the offence of causing death by rash or negligent driving of automobiles, one of the prime considerations should be deterrence. A professional driver pedals the accelerator of the automobile almost throughout his working hours. He must constantly inform himself that he cannot afford to have a single moment of laxity or inattentiveness when his leg is on the pedal of a vehicle in locomotion. He cannot and should not take a chance thinking that a rash driving need not necessarily cause any accident; or even if any accident occurs it need not necessarily result in the death of any human being; or even if such death ensues he might not be convicted of the offence; and lastly, that even if he is convicted he would be dealt with leniently by the court. He must always keep in his mind the fear psyche that if he is convicted of the offence for causing death of a human being due to his callous driving of the vehicle he cannot escape from a jail sentence. This is the role which the courts can play, particularly at the level of trial courts, for lessening the high rate of motor accidents due to callous driving of automobiles.”

7. Thus the Supreme Court held that benevolent provision of Section 4 of the Probation of Offenders Act (in short PO Act) which was to be used considering the circumstances of the case including the nature of the offence and the character of the offender, could not be utilized for an offence punishable under Section 304A IPC.

8. Thereafter in State of Punjab (supra) again Supreme Court noting the gravity of the offence punishable under Section 304A IPC reiterated the law laid down in Dalbir Singh (supra) and also noted the decision in B. Nagabhushanam Vs. State of Karnataka (2008) 5 SCC 730. In the light of the decisions as noted above this Court is of the considered view that it would not be in the interest of justice to quash a FIR for offence punishable under Section 304A IPC involving a road traffic accident on the basis that the parties have settled the matter.

4. This Court has already held that that the offence of driving rashly and negligently is required to be taken sternly as held by the Supreme Court in the decisions in Dalbir Singh (supra) and State of Punjab vs. Balwinder Singh (supra). Thus the above noted FIR cannot be quashed on the basis of compromise between the parties.

5. Petition is dismissed for non-prosecution for absence of the counsel even on second call.

MUKTA GUPTA, J.

JANUARY 31, 2018

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