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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 25th October, 2018

+ CRL. M.C. 5410/2018 and Crl.M.A.34859/2018

DEEPAK PAL

..... Petitioner

Through: Mr. Prem Chand Gangania,
Advocate

versus

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

..... Respondents

Through: Mr. Amit Ahlawat, APP for the
State with asi Yashpal Singh,
PS Karawal Nagar.
Ms. Pinki Talukdar, Adv. for
R-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. On the basis of final report under Section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C.) submitted upon conclusion of investigation into first information report (FIR) No.708/2015 of Police Station Karawal Nagar, the petitioner herein is facing prosecution for offences punishable under Sections 279/338 of the Indian Penal Code, 1860 (IPC). The gravamen of the charge against the petitioner in the said case is that on 10.12.2015 at about 7:30 p.m. he had driven a motor vehicle described as a car bearing registration No.DL-2CAM-5933 in a rash or negligent manner on a public road, it resultantly having struck and run over the second respondent, causing grievous

injuries on her lower limbs. He has approached this court invoking the inherent power and jurisdiction under Section 482 Cr.P.C. to seek quashing of the proceedings of the criminal case arising out of the said final report on the ground the matter has been amicably settled with the second respondent.

2. The petition is vehemently resisted by the learned Additional Public Prosecutor for the State placing reliance on decision of Supreme Court in *Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another*, (2017) 9 SCC 641; and rulings of this Court in *Shivam Chauhan & Anr. vs. The State (Govt. of NCT of Delhi) & Anr.*, Crl.M.C.2759/2018, dated 05.09.2018; and *Mohit Khurana vs. State (NCT of Delhi) & Ors.*, Crl.M.C.4327/2018, decided on 24.09.2018.

3. In *Shivam Chauhan* (supra), also a case of rash driving of a motor vehicle leading to similar mishap, *albeit* leading to death of a human being, this Court declined to quash the criminal proceedings based on “*settlement*”, observing 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).

4. The above views squarely apply to the case at hand.
5. For above reasons, the petition and the applications filed therewith are dismissed.

R.K.GAUBA, J.

OCTOBER 25, 2018

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