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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 30th October, 2018

+ CRL.M.C. 5511/2018 & CrI.M.A. 35241/2018

MANISH SAHNI

..... Petitioner

Through:

versus

STATE OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Amit Ahlawat, APP for the
State with SI Dharamvir Singh,
AIU Cell, New Delhi.
Mr. Amresh Yadav, & Mr.
Shivnath Kumar, Advs. for R-3
to 6 along with R-3 & 4 in
person.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner is facing prosecution in the criminal case arising out of the final report (charge-sheet) under Section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C.) submitted on conclusion of investigation into first information report no. 157/2014 of police station Parliament Street on the accusations of he having committed offences punishable under Sections 279 and 304 A of Indian Penal Code, 1860 (IPC), the gravamen whereof is that he had indulged in rash or negligent driving of motor vehicle on a public road, such act having resulted in an accident wherein one Sanjay Kumar Vidyarthi

suffered injuries that proved fatal. He has come up with the petition at hand invoking the inherent powers and jurisdiction of this Court under Section 482 Cr.P.C. praying for the proceedings in the said criminal case to be quashed on the ground that he has settled the dispute with the third to sixth respondents, they being the legal heirs of the deceased Sanjay Kumar Vidyarthi.

2. The petitioner places reliance on the decisions of the Supreme Court reported as *Gian Singh vs. State of Punjab* (2012) 10 SCC 303 and *Narinder Singh vs. State of Punjab* (2014) 6 SCC 466 and of a learned single Judge of this Court in Crl.M.C. 5327/2013 *Sh. Nand Kumar vs. State of NCT of Delhi & Ors.* decided on 11.02.2016.

3. The respondent/State opposes the prayer in the petition referring to the ruling of the bench of three hon'ble Judges of the Supreme Court *Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another*, (2017) 9 SCC 641 and decision of this Court reported as *Shivam Chauhan & Anr. vs. The State (Govt. of NCT of Delhi)* 2018 SCC Online Del 11315

4. In *Shivam Chauhan* while considering a similar prayer in another case of fatal accident, taking note, *inter alia*, of the decisions in *Gian Singh* (supra), *Narinder Singh* (supra) and *Parbatbhai Aahir* (supra), this court had concluded 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).

23. In above view, the approach in the earlier decisions of this court, and some other High Courts, cited by the petitioners does not commend itself to this court.

5. The above principles apply to the present case as well. In this view, this Court declines to grant relief prayed for.
6. The petition and the applications filed therewith are dismissed.

R.K.GAUBA, J.

OCTOBER 30, 2018/nk