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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(CRL) 2805/2019

PRAVEEN BANSAL & ANR Petitioners

Through: Mr Shiv Charan Garg
with Mr Imran Khan,
Advocates.

versus

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

.... Respondents

Through: Mr Sanjay Lao, ASC with
Mr Karanjeet Singh
Sharma, Advocate for
State.

SI Sanjay Kumar, P.S.
Prasad Nagar.

Mr Sunil Upadhyay,
Advocate for R2 to R8.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

04.12.2019

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VIBHU BAKHRU, J

1. The petitioners have filed the present petition, *inter alia*, praying that the FIR No. 60/2012 under Section 323/325/308/304/34 of the IPC, registered with PS Prasad Nagar and all proceedings emanating therefrom, be quashed.
2. The said petition is premised on a settlement arrived at between the petitioner and respondent nos. 2 to 8.
3. The petitioner was engaged in the construction of a building at

Plot No. E-16/1103, Tank Road, Bapa Nagar. The said building collapsed in the intervening night of 30.03.2012 and 31.03.2012. In the said incident, four persons died and three sustained injuries.

4. It is alleged that the petitioner had no permission to construct the said building and the construction being raised was wholly illegal and unauthorized. It is also alleged that instead of cement, some other substance was being used in the construction.

5. This Court is not inclined to examine the allegations in any depth. However, it does appear that if the allegations as made are correct than there is good ground to convict the petitioner for an offence punishable under Section 304-A of the IPC.

6. This Court in ***Bhajan Lal Sharma & Anr. v. State (Govt. of NCT of Delhi) & Ors.: W.P.(Crl.) 1280/2016, decided on 01.08.2016*** had observed that offences under Section 304-A of the IPC, which indicate gross negligence, cannot be quashed. This Court had also observed that the same would amount to providing a premium on negligence.

7. Although in certain cases where this Court has felt that ends of justice would be served, FIRs under Section 304-A of the IPC have been quashed. However, this Court is of the view that the present case is not one such case. The petitioners are accused of gross negligence. The petitioner had no permission or authority to raise the construction that was being raised. It also appears that the construction was raised in a negligent manner, which resulted in the tragic incident. It cannot be ignored that four persons have lost their lives and three have been

injured. Such wanton and unauthorised construction, without any regard as to safety of others, cannot be countenanced.

8. The learned counsel appearing for the petitioner has relied on the decisions of this Court in ***Ramanand v. The State & Anr.: (2014) 3 JCC 1923***; ***Ashok Kumar v. State & Anr.: (2014) 210 DLT 30***; and ***Baldev Raj Kapur v. State : (2009) 1 JCC 665*** in support of his contention that an FIR under Section 304-A of the IPC ought to be quashed if a settlement is arrived at between the accused and the legal heirs of the deceased.

9. The said contention is unmerited. In ***Ramanand*** (*supra*) this Court had noticed the authoritative decisions of the Supreme Court in ***Gian Singh v. State of Punjab: (2012) 10 SCC 303*** and ***Narinder Singh and Ors. v. State of Punjab and Anr.: (2014) 2 JCC 1360***. The Supreme Court had set down the principles, which are to be applied while considering the question whether an FIR is required to be quashed pursuant to a settlement arrived at between the concerned parties. The Supreme Court had explained that serious and heinous offences cannot be quashed on the basis of a settlement. However, offences which are in the nature of private disputes can be quashed on a settlement arrived at between the concerned parties. The Court had further observed that while exercising inherent powers, it is also to be examined whether extreme prejudice would be caused to the accused in not quashing the case.

10. Apart from offences of heinous nature and offences in the nature

of private disputes; there is a third class of cases, where the disputes are not of a private nature yet in the given facts would not amount to heinous or serious crimes. In such cases, the court may quash the FIR if, after examining the facts, it concludes that it would be in the interest of justice to do so.

11. This Court is of the view that this case does not fall within the scope of those cases. The decision in the case of **Ramanand** (*supra*) is, thus, of no assistance to the petitioner.

12. Insofar as **Ashok Kumar** (*supra*) is concerned, the said case relates to a death caused by rash and negligent driving. The Court had examined the facts and circumstances of that case and concluded that in the peculiar facts and circumstances of that case, continuance of the proceedings arising out of the FIR therein would be an exercise in futility. The present case is quite to the contrary. The facts obtaining in this case indicate that there is a strong probability of the petitioners being convicted of the alleged offence.

13. In the case of **Baldev Raj Kapur** (*supra*), the Court had examined the facts and came to the conclusion that the accused was not aware that the construction being raised was likely to cause death of human beings. No such inference can be drawn in this case. The said decision is also of little assistance to the petitioners.

14. It is settled law that in cases where the parties have reached the settlement and on that basis a petition for quashing the criminal proceedings is filed; one of the guiding factors for the court is to

examine if ends of justice would be served by quashing the criminal proceedings in question (see: *Narinder Singh and Ors. v. State of Punjab and Anr.*: (2014) 2 JCC 1336).

15. In the present case, this court is unable to accept that ends of justice would be served by quashing the FIR in question. The present petition is, accordingly, dismissed.

DECEMBER 04, 2019
pkv

VIBHU BAKHRU, J