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

+ **W.P.(CRL) 2405/2019**

SANDEEP KUMAR & ORS.

..... Petitioners

Through: Mr A.S. Chandiok, Senior Advocate
with Mr Syed Rehan and Mr Tarranjit
Singh Sawhney, Advocates.

versus

STATE & ORS.

..... Respondents

Through: Ms Kusum Dhalla, APP for State.
SI Mahender Singh, PS Pahar Ganj.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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13.12.2019

CRL.M.A. 34547/2019

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(CRL) 2405/2019 and CRL.M.A. 34546/2019

3. The petitioners have filed the present petition, *inter alia*, praying that FIR bearing no. 270/2017, under Section 304-A of the IPC registered with PS I.P. Estate and all proceedings emanating therefrom, be quashed.
4. The said FIR was filed in relation to an incident that had occurred at about 10:50 p.m. on 09.10.2017. One of the security guards deployed at the construction site at 31-32 DDU Marg, Delhi, had fallen down from a height and had thereafter, succumbed to his injuries. The deceased (Ram Charan

son of Dasi Mehte) was rushed to the LNJP Hospital. He was medically examined and it was reported that he was unconscious and unfit to make any statement. Sh. Ram Charan had suffered a head injury and there was bleeding from his nose and eyes.

5. The Investigating Officer had reached the site and found that a construction was being raised on the plot bearing no. 31-32 (measured about 200 square yards). The said site was surrounded by iron sheets and there was a space left for entering the said site from the front and rear. The plot had been excavated to approximately 18-20 feet and plain floor had been constructed with concrete. There was a five-foot pit at the edge of the wall. The Investigating Officer found that there was a significant quantity of blood inside the pit. He took photographs of the site and also collected the blood-stained soil.

6. In the aforesaid context, the FIR in question had been lodged for which the petitioners were sought to be charged for offence committed under Section 304A of the IPC.

7. The present petition is premised on the Compromise Deed dated 31.10.2017 entered into between the petitioners and the legal heirs of the deceased.

8. The deceased is survived by seven legal heirs; his wife (respondent no.2); his four minor children (respondent nos. 5 to 8); an adult son (respondent no.3); and a daughter (respondent no.4). In terms of the compromise arrived at, each of the legal heirs is to be paid a sum of ₹1,65,000/-. In addition, the petitioners have also agreed to pay a further

sum of ₹1,50,000/- to the wife of the deceased (respondent no.2). It is stated that apart from the above amount, the petitioners had also paid a sum of ₹2,20,000/- in monthly instalments of ₹10,000/- each. This payment was made in lieu of the salary which was earlier being drawn by the deceased.

9. Respondent nos. 2, 3 and 4 are present in Court and are identified by the Investigating Officer.

10. Respondent no.2 acknowledges that she has received a sum of ₹2,20,000/- in instalments of Rs.10,000/-. In addition, she has also been handed over two demand drafts of ₹1,50,000/- and ₹15,000/- respectively (DD Nos. 703359 for ₹1,50,000/- and DD No. 703395 for ₹15,000/- drawn on the Punjab and Sind Bank). She accepts the said sum as full and final settlement of all her claims.

11. The petitioners have also handed over demand drafts of ₹1,65,000/- each (DD No. 703396 and DD No. 703397 drawn on Punjab and Sind Bank) to respondent nos. 3 and 4. They have accepted the same as full and final settlement of their claims. They further state that they have no grievances or claims against the petitioners.

12. In addition to the above, respondent no.2 has also accepted four fixed deposit receipts made by the Punjab and Sind Bank in favour of her minor children (respondent nos. 5 to 8). The said fixed deposit shall continue in their names till they attain the age of twenty-one years. However, the interest accrued on the said FDRs shall be released to them through their mother (respondent no.2) on a six-monthly basis. This will continue till they attain the age of majority. Thereafter, the interest shall be released to them

directly.

13. Ms Dhalla, learned APP for State submits that the offence for which the petitioners are charged, is under Section 304-A of the IPC and, therefore, FIR in regard to the said offence may not be quashed.

14. In *Gian Singh v. State of Punjab: (2012) 10 SCC 303* and *Narinder Singh and Ors. v. State of Punjab: (2014) 6 SCC 466*, the Supreme Court had set down the principles to determine whether an FIR could be quashed. Clearly, FIRs relating to heinous crimes and crimes of a serious nature such as rape and murder, cannot be quashed. It is also explained that FIRs in relation to crimes which are in the nature of private disputes, can be quashed.

15. Apart from the above classes, there is yet another class of offence, which are not in the nature of a private dispute. The said offences also have serious ramifications on the society. Such offences may be quashed depending upon the facts and circumstances of each case. In the present case, it is seen that the deceased was employed as a security guard and therefore, he was charged for protecting the site from others. He was to ensure that unauthorised personnel do not enter the site. This was also necessary to avoid any accidents as the site was an open excavation. It is, thus, difficult to accept that any negligence on the part of the petitioners can be imputed by the deceased suffering injuries on account of accident, which he was deployed to prevent.

16. The facts as stated in the FIR in question also do not suggest any gross negligence on the part of the petitioners in not protecting the site. The

deceased was not a worker who was injured for want of any safety measures. After examining the facts of this case, this Court is of the view that ends of justice would be met in quashing the FIR in question. Continuing the FIR would be prejudicial not only to the victims but also to the heirs of the deceased.

17. The petition is, accordingly, allowed.

18. FIR bearing no. 270/2017, under Section 304-A of the IPC registered with PS I.P. Estate and all proceedings emanating therefrom, are quashed.

19. The pending application is also disposed of.

DECEMBER 13, 2019
RK

VIBHU BAKHRU, J