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

Date of Order: January 22, 2019

\+ **CRL.M.C. 1804/2018 & CRL.M.A. 6443/2018**

NITESH KUMAR @ NITESH KAPOOR .....Petitioner

Through: Mr. Amardeep Singh, Advocate

versus

STATE GOVT OF NCT OF DELHI & ORS .....Respondents

Through: Mr.M.P. Singh, learned Additional Public Prosecutor with SI Amit Rana

Mr. Suhail Sharia, Advocate with respondents No. 2 and 7 to 10 in person

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

O R D E R
(ORAL)

Quashing of FIR No. 671/2014, under Sections 284/287/304A of IPC, registered at police station Swaroop Nagar, Delhi is sought on the basis of Settlement-Agreements of 24th April, 2017 *(Annexure-B)* and 16th March, 2018 *(Annexure- C)* and affidavit of respondents No. 2 and 7 to 10 in support of this petition.

Upon notice, Mr. M.P. Singh, Learned Additional Public Prosecutor submits that Respondents No.2 and 7 to 10 present in the Court, are the legal heirs of deceased Raju @ Sarfe Alam. It is submitted that respondents No. 9 and 10 are the legal heirs of deceased Rahul, son of Shri Ram Sakal Thakur, who are the complainant party/ first informant of FIR in question and they have been identified to be so, by SI Amit Rana and by counsel on the basis of identity proof produced by

them. It is pointed out that Respondents No.3 to 6 are minors, who are represented by respondent No.2, their mother- Smt. Nagina, who is also present in the Court. Respondents No.2 and 7 to 10 affirm the contents of Settlement-Agreements of 24th April, 2017 *(Annexure-B)* and 16th March, 2018 *(Annexure- C)* and their affidavits filed in support of this petition and they submit that they have been duly compensated by petitioner. It is stated that the accident in question took place as the wooden plank (palli) had broken and as a result thereof, Raju and Rahul had fallen into the chemical drum and had unfortunately died.

Learned counsel for petitioner on instructions submits that after this accident, petitioner has closed down his business of manufacturing flexible binder and he would not be continuing with this business and to this effect an undertaking by way of affidavit of petitioner would be placed on record within a week from today.

Supreme Court in *Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Vs. State of Gujarat* (2017) 9 SCC 641 has reiterated the parameters for exercising inherent jurisdiction under Section 482 Cr.P.C. for quashing of FIR / criminal complaint, which are as under:-

> *"16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:*
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> *16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.*
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> *16.2. The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an*

offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

16.5. The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated.

16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants,

the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

16.10. There is yet an exception to the principle set out in propositions 16.8. and 16.9. above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

In the facts and circumstances of this case, this Court finds that petitioner cannot be squarely blamed for the accident in question and since the legal heirs of deceased have been duly compensated, ends of justice would be met if the proceedings arising out of this FIR are brought to an end.

Consequentially, this petition is allowed, subject to costs of ₹50,000/- to be deposited by petitioner with *Prime Minister's National Relief Fund* within four weeks from today and upon placing on record the receipt of deposit of costs and also upon petitioner furnishing the undertaking in afore-noted terms to this Court within two weeks thereafter, FIR No. 671/2014, under Sections 284/287/304A of IPC registered at police station Swaroop Nagar, Delhi and the proceedings emanating therefrom shall stand quashed.

This petition and the application are accordingly disposed of in aforesaid terms.

Dasti.

(SUNIL GAUR)
JUDGE

JANUARY 22, 2019
v