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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Delivered on: 13.03.2020

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W.P.(CRL) 550/2020

TARANJEET SINGH & ORS

..... Petitioners

Through : Mr.Tanmaya Mehta and Mr.Vivek
Gaur, Advocates with petitioners
in person.

versus

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

Through : Ms.Kamna Vohra, ASC with SI
Bramha Prakash, PS Kapashera,
Delhi in person/R1.
Mr.Rohit Seghal, Advocate for
respondents No.3 & 4 with both
respondents in person.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

YOGESH KHANNA, J.

1. This petition is filed for quashing of FIR No.512/2019 under Section 287/336/304 of IPC registered at P.S. Kapashera and the proceedings emanating from it.

2. The brief facts are:

(a) On 15.12.2019, a function was in progress of the son of the petitioner no.1 namely Shri Taranjeet Singh at Calista resort;

(b) during the function, a child namely Master Gurnam Singh s/o respondent no.2 and 3 and grandson of respondent no.4 was electrocuted and was sent to the hospital where the

said child remained on ventilator till 23.12.2019 and died on 23.12.2019;

(c) the cause of electrocution as stated by the father of the deceased child in the FIR was the child caught hold of an electric wire which was cut at some point and due to which the child got electrocuted;

(d) initially, the prosecution agency registered an FIR u/s 287/337 IPC which was later on converted to 304-A IPC;

(e) the petitioners no.1 to 3 were asked certain information as well as documents under the provisions of Section 91 Cr.P.C which were duly supplied. The work related to electrical fittings and fixtures of the said Resort was looked after by a contractor i.e. petitioner no.4, namely Shri Mayank Khullar, Proprietor of M/s. Laue Light Event Decorator;

(f) in the meantime, the petitioners no.1 and 2 were called to the Police Station at Kapashera where they were arrested;

(g) since the victims i.e. respondents no.2 to 4 and petitioner no.1 are all relatives; their common relatives got settled all the disputes between the petitioners and respondents no.2 to 4 and a Memorandum of Understanding/Settlement was entered into between the parties;

(h) the copy of the Memorandum of Understanding/Settlement dated 18.02.2020 has been

annexed by the parties along with this petition and it witnesseth as under:

"1. That it has been mutually agreed between the parties that the first party is including some expenses for their child Gurman Singh and also in lieu of compensation for the injury caused to Gurman Singh, the third party/contractor has agreed to pay a sum of Rs.20,00,000/- (Rupees Twenty Lakhs) only to the first party, out of which Rs.5,00,000/- by way of cheque bearing No,026854;. dated 19.02.2020 drawn on Oriental Bank of Commerce, Kapashera Branch, New Delhi-1 10027 in favour of Smt. Tanya Kaur Mehar would be paid at the time of signing of the Present MOU and the remaining amount of Rs. 15,00,000/- by way of Cheque/Demand Draft before the Hon'ble The High Court of Delhi at New Delhi itself. Since the third party is not in a financial position to make the payment, the second party has agreed to make the payment on behalf of the third party.

2. That it has been mutually agreed between the parties that the second and third party are making the payment without admitting any guilt or without admitting any commission of offence, on humanitarian basis and expenses of the medical treatment and also as compensation of the injury caused to the Gurman Singh . This amount of Rs.20,00,000/- would involve all sorts of compensation, if any, towards the parents of Gurman Singh i.e. first party.

3. That it has been mutually agreed between the parties that after the receipt of payment of Rs.20,00,000/- as compensation and expenses of the medical treatment, the first party shall not make any kind of claim against the third party being contractor or the second party being the owner of the resort, where the unfortunate incident took place.

4. That it has been mutually agreed between, the parties that in context to the FIR No.512/2019 both the parties would file a joint petition for quashing of above n said FIR before the Hon'ble High Court of Delhi at New Delhi and the first party shall give their no objection for the quashing of the said FIR before Hon'ble High Court of Delhi at New Delhi, for which purpose the first party shall give their affidavit containing their No Objection, their ID Proofs, their photographs and also would make themselves available before the Hon'ble High Court of Delhi at New Delhi to

make the statement and would extend their cooperation in all manner.

5. That it has been mutually agreed between the parties that after the receipt of compensation of Rs.2,00,000/- as stated above in all eventualities to come in future, the first party shah cooperate with, the second party and third party, for all the court proceedings including civil and criminal. It has also been undertaken by first party that they shall not initiate any kind of civil or criminal case, litigation or complaint against the second party and third party.

6. That it has been mutually agreed between the parties that the present settlement is to maintain peace and harmony amongst the parties as the parties are known to each other since past. To maintain the cordial relations, the parties have agreed to enter into this MOU/Settlement. The parties undertake to abide by all terms and conditions of this settlement.

7. That the parties have been left with no grievance of whatsoever kind against each other and hence the parties undertake to abide by all the terms and conditions.”

3. It is argued by the learned counsel for the petitioner the FIR be quashed for the reasons aforesaid. However the learned ASC for State referred to the status report filed on record which noted as under:

“That during investigation, on 15.01.20, Capt. Bhupinder Pal Singh (father of deceased), Sardar Gurbachan Singh (father in law) and Sh. Manpreet Singh (relative) joined investigation and their statements U/S 161' Cr.P.C were recorded. As per their statements, the partners/directors of Calista Resort had managed/organized number of functions in the Resort. The child Gurman Singh Age 09 Years had got the electric shock and died because of installation of naked wires in the lawn area of .the programme, fully knowing that such installation would definitely cause a fatal accident. No testing of the system, earthing was carried out before starting the programme. Capt. Bhupinder Singh (Father of the deceased Child Gurman) had warned Taranjeet Singh regarding the naked wires and lose joints on the wire installation in the lawn area during the programme, but

Taranjeet Singh told him that he had organized many programmes/functions with these types of electrical arrangements and nothing will go wrong. Just for the commercial benefit, the owners/partners organizing such public functions of large gatherings have put the lives of guests at risk & stake. It was in the knowledge of the partners/directors of Calista Resort and they were fully aware that such installations of electricity would have caused major casualties."

4. It was argued by the learned ASC the offence under Section 304 of IPC is clearly made out as Capt. Bhupinder Pal Singh, father of the deceased had informed the petitioners of a naked wire and loose joints but despite the petitioners did not do anything on the premise nothing would go wrong hence it was a case of culpable homicide.

5. If one peruse the charge sheet one may find the only material public witnesses are the parents and grandfather of deceased. Since admittedly they have entered into a compromise hence framing of charge and examining them later to declare them hostile would only be a futile exercise.

6. In the circumstances, I see no impediment as to why such FIR cannot be quashed. In *Kamal Kishore vs. The State (NCT of Delhi) and Ors.* Cr.L.M.C. 3878/2019 decided on 22.01.2020, FIR under Section 304-A of IPC was quashed by this Court. Further in *Babu Khan and Ors. Vs. State and Ors.* In W.P.(CRL.) 2227/2019 decided on 05.09.2019, FIR under Section 288/304A of IPC was quashed. Further in C.R.R. No. 1173/2018 Kolkata High Court had quashed a FIR under Section 304 (II) of IPC, registered under

other sections too.

7. In *Pankaj Bhardwaj and Ors. Vs. State and Ors.* the following was held:

“9. It is a well settled law that where the High Court is convinced that the offences are entirely personal in nature and therefore do not affect public peace or tranquillity and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, pursuing prosecution would be waste of time and energy. Non-compoundable offences are basically an obstruction in entering into compromise. In certain cases, the main offence is compoundable but the connected offences are not. In the case of B.S. Joshi and others v. State of Haryana and another 2003 (4) SCC 675 the Hon'ble Apex Court observed that even though the provisions of Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C. The Hon'ble Apex Court laid down that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, section 320 Cr.P.C. would not be a bar to the exercise of power of quashing. In the nutshell, the Hon'ble Apex Court justified the exercise of powers under Section 482 Cr.P.C. to quash the proceedings to secure the ends of justice in view of the special facts and circumstances of the case, even where the offences were non compoundable.”

8. In the circumstances, the petition stands disposed of and thus FIR No.512/2019 under Section 287/336/304 of IPC registered at P.S. Kapashera and proceedings emanating from it are quashed. Pending application(s), if any, also stands disposed of.

YOGESH KHANNA, J.

MARCH 13, 2020/ᄁU