

\$~44

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

+ **W.P.(CRL) 2565/2019 and CRL.M.A. 35674/2019**

P. SHANMUGHAM

..... Petitioner

Through: Mr Sudhir Nandrajog, Senior Advocate with Arshdeep Singh Khurana, Mr Akshat Gupta and Mr Manu Saini, Advocates.

versus

STATE & ORS.

..... Respondents

Through: Ms Nandita Rao, ASC (Criminal) for State.
SI Rajender Singh, PS Anand Vihar.
Mr Sadapurna Mukherjee, Advocate for R-2 & 3.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER
17.02.2020

%

1. The petitioner has filed the present petition, *inter alia*, praying that the ***Criminal Case bearing no. 3306/2017*** captioned ***State v. P. Shanmugham*** and the order framing notice dated 12.10.2018, under Section 304A of the IPC, against the petitioner herein and other consequential proceedings, be quashed.
2. Mr Nandrajog, learned senior counsel appearing for the petitioner states that the petitioner essentially seeks quashing of FIR bearing no. 654/2014, under Sections 287/337 of the IPC, registered with PS Anand Vihar and all proceeding emanating therefrom.
3. The present petition is premised on the basis that the concerned parties (the petitioner and the legal heirs of the deceased victim) have

arrived at a settlement, whereby the legal heirs of the deceased have received a total sum of ₹10,90,000/- in full and final settlement of their claims and the petitioner has also agreed to pay a further sum of ₹50,000/- in addition to the settlement amount.

4. The said FIR was registered in view of the information received from Max Hospital that the deceased (Bipul Barman), who was aged about 25 years at the material time, was brought to the hospital in an injured condition.

5. It was stated that he had received the injuries at the time of construction of work relating to Delhi Metro near CR Mall. The inquiries, subsequently, indicated that the deceased had suffered a head injury on account of an iron rod falling on his head. The allegation against the petitioner, who was the supervisor of the project, is that he had acted negligently, inasmuch as the workman was not provided the requisite protected gear.

6. Inquiries had revealed that the petitioner was the supervisor on behalf of JNC Projects Limited and the said company had engaged a sub-contractor for the works. The petitioner also claims that all materials, as required, had been provided.

7. This Court has further examined the facts obtaining in this case. It is not disputed that the deceased had been hit by an iron rod because at the material time, he was working on a bar bending machine and the deceased had not taken the necessary measures to cap the same. It is stated that there was a recoil and the bar had hit the workman, leading to injuries that proved

fatal.

8. Considering the above, this Court is of the view that ends of justice would not be served in prosecuting the petitioner, as it does not appear to be a case of negligence but a case of an accident that had occurred because certain measures were not taken by the workman (deceased).

9. In *Gian Singh v. State of Punjab and Anr. : (2012) 10 SCC 303* and *Narinder Singh and Ors. v. State of Punjab: (2014) 6 SCC 466*, the Supreme Court had laid down the principles for quashing the FIRs on the basis of settlement arrived at between the parties. Although it was held that the private disputes can be settled between the parties, certain heinous crimes cannot be subject to a settlement between the parties.

10. However, there is a third set of cases, where the offences are not strictly of a private nature, but also do not qualify as heinous crimes, such as rape or murder. In such cases, it is necessary for the Court to examine the facts of the case and to consider whether the ends of justice would be served in quashing the proceedings on the basis of settlement arrived at between the parties.

11. Considering the facts of the present case, where it is apparent that the injury caused to the deceased was in the nature of an accident, which had been caused on account of certain measures that were not taken by the workman while operating the machine; this Court is of the view that the ends of justice would be served in quashing the proceedings.

12. Respondent no.2 is present in Court and is identified by the

Investigating Officer. He also confirms that the deceased was survived only by his father (respondent no.2) and his mother (respondent no.3) as his legal heirs.

13. Respondent no.3 has been unable to come to Court as the respondents are residents of West Bengal.

14. Respondent no.2 acknowledges that he has already received the sum of ₹10,90,000/- in full and final settlement of all his and his wife's claims.

15. Mr Nandrajog, learned senior counsel who appears for the petitioner states that notwithstanding the same, the petitioner shall pay a further sum of ₹50,000/- to respondent no.2 on or before 18.02.2020.

16. Respondent no.2 states that neither his wife nor he has any grievance against the petitioner and joins the petitioner in praying that the FIR be quashed.

17. The petitioner is present in Court and is identified by the counsel. The petitioner also confirms that he had settled all his disputes with respondent nos.2 and 3.

18. In view of the statements made by or on behalf of the concerned parties, this Court considers it apposite to allow the present petition.

19. Accordingly, FIR bearing no. 654/2014 under Sections 287/337 of the IPC, registered with PS Anand Vihar and all proceedings emanating therefrom, are quashed.

20. The pending application is also disposed of.

21. The petitioner and respondent no.2 shall sign this order as an acknowledgment of their statements recorded herein.

VIBHU BAKHRU, J

FEBRUARY 17, 2020
RK