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

+ **CRL.M.C. 540/2023**

MR SHOAIB KOHLI

..... Petitioner

Through: Mr. Ashim Vachher with Mr. P.
Piyush, Advocates.

versus

STATE GNCT OF DELHI & ORS.

..... Respondents

Through: Mr. H.S. Popli, APP for the State
with SI Suresh Kumar, PS Vasant
Vihar.
Mr. Sumeet Shokeen, Advocate for
respondent Nos.2 to 4 with
respondent No.2 in person.

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Date of Decision: 27th January, 2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CRL.M.A.2135/2023 (exemption)

Exemption allowed subject to all just exceptions.

CRL.M.C. 540/2023

1. This is a petition for quashing of FIR No.55/2017 under Sections 279/304A IPC registered at Police Station Vasant Vihar and all proceedings emanating therefrom.
2. Facts in brief are that the above FIR was lodged on the basis of DD No.47A. The allegations in the FIR are that petitioner was driving vehicle bearing No. CH 01 AZ 2534 and accident occurred with a car bearing No. No.HR 55X 4375 Wagon-R/Taxi. Consequent to the alleged accident, the driver of the Taxi was taken to the Hospital where he was declared 'brought dead'. After the investigation, chargesheet under Sections 279/304A IPC was lodged against Sohain Kohli @ Shoaib Kohli.
3. Learned Counsel for the petitioner submits that with the intervention of elders and respected persons, the parties have arrived at a settlement and thereupon MOU dated 17.01.2023 has been entered into by the parties. He further submits that continuance of the FIR No. 55/2017 under Sections 279/304A IPC registered at Police Station Vasant Vihar would be an abuse of the process of the Court in terms of the amicable settlement and this Court may quash the above mentioned FIR and all proceedings emanating therefrom in exercise of its jurisdiction under Section 482 of Cr.P.C.
4. The offences under Section 279 and 304A IPC are non-compoundable offences being serious in nature. However it is a well settled proposition of law that if the Court feels that continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end, then the Court in exercise of its powers under Section 482 Cr.P.C. can quash the criminal proceedings on the ground

that there is a compromise between the parties. Reliance may be placed on *Gian Singh v State of Punjab & Anr* (2012) 10 SCC 303, *Narinder Singh & Ors v. State of Punjab & Anr* (2014) 6 SCC 466

5. It is pertinent to note that initially the parties had entered into an MOU dated 20.03.2017 whereby the petitioner agreed to pay a sum of Rs.21 lakhs to respondent Nos.2, 3 & 4. Respondent No.2 is the widow of the deceased and respondent Nos.3 and 4 are the children of the deceased. Pursuant to MOU dated 20.03.2017, CM(M) 1395/2017 was filed. However, the settlement could not be fructified and therefore the petition was dismissed as withdrawn on 10.04.2017. Thereafter, another settlement deed dated 22.05.2017 was entered into between the parties. Vide the said settlement, petitioner agreed to pay a sum of Rs.21,50,000/- to the respondent No.2 and second petition bearing Crl.M.C. 2165/2017 was filed. However, the same was also dismissed as withdrawn.

6. Now, the third Memorandum of Understanding/settlement dated 17.01.2023 has been arrived into between the petitioner and Respondent No. 2, widow of the deceased and mother of Respondent No. 3/Mohd. Arif Hossen and Respondent No. 4/Nazema Parvin. As per the terms of the settlement dated 17.01.2023, the parties have agreed to the following terms and conditions:-

- “1. That Party of the First Part has agreed to make a payment of Rs.25,00,000/- (Rupees twenty five lakh only) to the Party of the Second Part being compensation, on humanitarian ground for loss of life of late Shri Najirul Islam, towards her and her two minor children namely Md. Arif Hossen (son) and Najema Parvin (daughter).

2. *That the Party of the Second Part has agreed to render all assistance to the Party of the First Part in quashing/withdrawing the said FIR bearing No.55 of 2017 registered with Police Station, Vasant Vihar, New Delhi against the Party of the First Part who is named in the said FIR and for quashing of the criminal proceedings pending against the Party of the First Part, before the Court of Metropolitan Magistrate, New Delhi.*
3. *That the SECOND PARTY undertakes not to lodge/file any other complaint against the FIRST PARTY who is named in the said FIR.*
4. *That the Party of the Second Part has already been granted compensation by the Motor Accident Claim Tribunal. Whatever compensation which has already been awarded by the Motor Accident Claim Tribunal to the Party of the Second party and her two minor Children would be their exclusive entitlement which they would receive. The present compensation agreed to be given by the Party of the First Part, under the this MOU, shall be over and above and in addition to the said compensation already granted in favour of the Party of the Second Part and her children.*
5. *That Party of the Second part has agreed that she would be left with no further claim against the Party of the First Part after receiving the abovementioned compensation as agreed between the parties.*
6. *That the parties have agreed that the Party of the First Part and the Party of the Second Part shall file an appropriate Petition for quashing of abovementioned FIR before the Hon'ble High Court of Delhi. It has further been agreed between the parties that the amount of Rs. 25,00,000/- (Rupees twenty five lakh only) being paid by the party of the First part to the Party the Second Part shall only be paid and distributed amongst the*

party of the Second Part and her two minor children in terms of the directions as may be passed by the Hon'ble High Court of Delhi in the above said Petition.

- 7. That the present deed of Agreement has been executed between the FIRST PARTY and SECOND PARTY with their own free will and accord without any pressure, force, coercion or undue influence from any quarter whatsoever. Both the parties have signed on this deed of Agreement, after fully understanding the contents of the same in vernacular form.*
- 8. That it has been further agreed between the parties hereto that the present Agreement has been entered into between the parties with a view to resolve the disputes and differences and to amicably settle their disputes between each other.*
- 9. That the contents of present MOU have been explained to Party of the Second Part in vernacular and she has understood and the same.”*
7. Respondent No.2 is present in person and has duly been identified by the Investigating Officer. She states that she has entered into the settlement voluntarily without any fear, force or coercion and has no objection if FIR No.55/2017 under Sections 279/304A IPC registered at Police Station Vasant Vihar and all proceedings emanating therefrom are quashed. Her affidavit to this effect has also been placed on record and learned counsel for respondent No.2 has also submitted that her client has entered into the settlement voluntarily.
8. It is an admitted case that the respondents have already received a sum of Rs.19,00,000/- by way of an Award by the Motor Accident Claim

Tribunal and three demand drafts have been provided to the respondent No.2, the details of which are as follows:-

- (i) *Demand Draft bearing No.441783 dated 24.01.2023 drawn on Citi Bank amounting to Rs.8,33,000/- in the name of Ms. Najema Parvin.*
- (ii) *Demand Draft bearing No.441785 dated 24.01.2023 drawn on Citi Bank amounting to Rs.8,34,000/- in the name of Ms. Arjina Khatun.*
- (iii) *Demand Draft bearing No.441784 dated 24.01.2023 drawn on Citi Bank amounting to Rs.8,33,000/- in the name of Md. Arif Hossen.*

9. Taking into account the totality of facts and circumstances, the case FIR No.55/2017 under Sections 279/304A IPC registered at Police Station Vasant Vihar and all proceedings emanating therefrom are quashed.

10. The present petition stands disposed of.

DINESH KUMAR SHARMA, J

JANUARY 27, 2023
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