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

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Reserved on: 14.07.2023
Pronounced on: 31.07.2023

+ CRL.M.C. 4751/2023

AJAY AGARWAL

..... Petitioner

Through: Mr. Ashok K. Singh and Ms.
 Tanishq Mehta, Advocates
 alongwith petitioner

versus

STATE OF NCT OF DELHI & ANR

..... Respondents

Through: Ms. Shubhi, APP for the State
 with SI Mohal Lal and SI
 Rinku, P.S. Bawana.
 Respondent no. 2 in person

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. By way of present petition filed under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.'), the petitioner seeks quashing of FIR bearing no. 248/2016 dated 27.05.2016 registered at Police Station Bawana under Sections 287/304A of Indian Penal Code, 1860 ('IPC').

2. Briefly stated, the facts of the present case are that on 27.05.2016, the victim Sh. Ishwarchand had got electrocuted while working at the factory owned by the petitioner, and his friends/co-laborers had taken him to Maharishi Valmiki Hospital. However,



during the treatment, the victim had passed away, and the concerned staff at the hospital had informed the police officials about the incident. Subsequently, the present FIR had been registered, and a notice under Section 91 Cr.P.C. had been sent to the petitioner, from whom several documents related to the ownership of the factory and the employment details of the deceased had been obtained. After interrogation, the petitioner had been arrested in the present case. After investigation, chargesheet was filed under Sections 287/304A of IPC.

3. Learned counsel for the petitioner has argued that the parties have compromised the matter and respondent no. 2 i.e. wife of deceased, who was also present in the Court, had agreed to quashing of the present FIR as she had agreed to settle all the disputes for a payment/compensation of Rs.9,30,000/- out of which Rs.6,50,000/- had already been received by her.

4. The learned APP for the State has argued that since similar kind of involvement of the petitioner has also been pointed out by the investigating officer, it is not a fit case for quashing of FIR on the basis of compromise. This Court was also not inclined to allow the present petition. Learned counsel for the petitioner thereafter insisted that the matter be heard on merits, and argued that the victim in the present case had unfortunately passed away due to an accident and the petitioner herein could not be held liable for the same as there was no negligence on his part. It was argued that the Co-ordinate Bench of this Court in case of *Ajay Agarwal v. State of NCT of Delhi & Anr. Crl.M.C. 2899/2018* had also quashed an FIR registered against the present petitioner on similar allegations, on the basis of compromise, holding a



view that there was nothing on record to show that petitioner was responsible for electrocution of the deceased therein. Thus, it was prayed that present petition be allowed.

5. Learned APP for the State further argued that the death of the victim was caused due to the negligence on part of the petitioner as he had failed to provide any safety gears to his employees and therefore, the present FIR ought not to be quashed.

6. The rival contentions raised on behalf of both sides have been heard and material placed on record has been perused.

7. It was initially contended on behalf of the petitioner that since the dispute has been amicably settled between the petitioner and respondent no. 2 i.e. wife of the deceased, the present FIR registered under Sections 287/304A of IPC can be quashed. During the course of arguments, the learned counsel for petitioner has also relied upon a decision of Co-ordinate Bench of this Court in *Ajay Agarwal v. State of NCT of Delhi & Anr. Crl.M.C. 2899/2018*, wherein the present petitioner himself was accused of committing a similar offence and the victim had died due to electrocution while working at the same factory of the petitioner, and the Co-ordinate Bench was pleased to quash the FIR.

8. Thus, a perusal of the said decision itself, in fact, reveals that the present case is not the first such incident where a worker working at the factory owned by the petitioner has unfortunately died due to electrocution, but a similar incident had also taken place in the year 2014 i.e. two years prior to the present incident, at the same premises.

9. In the present case, as per prosecution, the petitioner had failed



to provide any safety gears/armours to the workers working at the premises of his factory, which he was supposed to do, which had resulted in the victim getting electrocuted while working on a machine. In such circumstances, this Court is of the firm opinion that at this stage, it cannot be held that there was no negligence on the part of petitioner, especially when incident of similar kind had also taken place earlier and has been repeated at the same factory owned by the petitioner, where two innocent workers have thus got electrocuted and died due to non-availability of safety gears or apparent lack of safety measures which *prima facie* appear to be a case of negligence on the part of petitioner. This Court also observes that the repeated incidents of similar nature due to same allegation of negligence point out towards lack of safety measures which were to be provided mandatorily by the petitioner being owner of the factory in question. The insistence of the learned counsel that the FIR can be quashed as a matter of right of the petitioner since matter has been settled is devoid of any merit. Since the learned counsel has now addressed arguments as to why even on merits the FIR needs to be quashed, the Court observes as under.

10. The inherent power of this Court under Section 482 Cr.P.C. is discretionary in nature and is to be exercised with caution. The principles for quashing of FIR are well-settled through various judicial precedents, including the principles laid down by the Hon'ble Apex Court in case of *State of Haryana v. Bhajan Lal* 1992 SCC (Cri) 426 and *Neeharika Infrastructure v. State of Maharashtra*, 2021 SCC OnLine 315.



11. Upon careful examination of the facts in the present case and considering the petitioner's previous history of being accused of similar offences, this Court cannot arrive at a conclusion that the incident that had taken place in the present case was a mere accident, for which no negligence can be attributed on the part of petitioner without a full trial taking place, so as to quash the present FIR. The petitioner in the present case has not raised any contention or any ground which would prime facie show that the FIR in the present case has resulted in any abuse of process of law or that the allegations levelled against the petitioner are inherently improbable or absurd especially in view of a similar case of negligence resulting in death of another worker in his factory or that they do not constitute commission of any offence. The question as to whether there was any negligence on part of the petitioner can only become clear during the course of trial, which has yet not commenced.

12. Thus, in view of the foregoing discussion, this Court does not deem it appropriate to quash the present FIR.

13. Accordingly, the present petition stands dismissed.

14. It is, however, clarified that the observations made hereinabove are prima facie in nature, solely for the purpose of deciding present petition, and the same shall not tantamount to an expression of opinion on the merits of the case.

15. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JULY 31, 2023/zp