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

+ **CRL.M.C. 227/2024**

BRIJESH KUMAR TIWARI

.....Petitioner

Through: Mr. Sundaram Ojha, Mr. Abhishek
Ranjan, Ms. Pallavi Srivastava and
Mr. Niket Shukla, Advocates.

versus

THE STATE (GOVT OF NCT OF DELHI) & ANR.

.....Respondent

Through: Mr. Hemant Mehla, Ld. APP for State
with Ms. Mridul Sharma, Advocate
with SI Amit P.S. Nabi Karim.
Ms. Neha Tripathi and Mr. Nikhil
Kumar, Advocates for R-2.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **11.09.2024**

1. A Petition under Section 482 Cr.P.C has been filed on behalf of the petitioner seeking quashing of FIR No.119/2020 under Section 304-A IPC registered at Police Station Nabi Karim.
2. It is submitted that the deceased Sunny was working as a sweeper in Hotel Yuvraj Deluxe, Paharganj, New Delhi . On 17.04.2020 the deceased Sunny went on his own to Fourth Floor of the hotel, where he lost his life due to electrocution. After due investigations, Chargesheet has been filed in the Court and the trial is ongoing. PW1 Shri Ashwani father of the deceased recorded, has given his Statement that he does not want to pursue with the



matter.

3. The quashing of the FIR has been sought on behalf of the petitioner on the ground that the affidavit has been filed on behalf of respondent No.2 father of the deceased, reiterating that the FIR may be quashed. The death happened on account of an accident and that there is no mistake, delay or laches, negligence on the part of the management of the Hotel. The statement of the witnesses under Section 161 Cr.P.C relied upon by the Prosecution do not point to any single act or omission on the part of the petitioner pointing towards his negligence. The MLC and the post mortem Report also given the cause of death as electrocution and IH complications. The unfortunate accidental death of Sunny was solely due to his own mistake.

4. It is submitted that the perusal of the Chargesheet reflects that it is silent about any single probable act/omission indicating about any negligence on the part of the petitioner. The circumstances itself speaks of the innocence of the petitioner. The continuation of the FIR and consequential criminal trial would ensure irreparable harassment of both the petitioner and respondent No.2 further depriving them of their dignified life and personal liberty guaranteed under Article 21. Hence, a prayer is made that the criminal trial proceedings before the learned M.M be quashed.

5. Learned Prosecutor has opposed the petition on the ground that there are 22 Prosecution witnesses and only one witness who is the father of the deceased, has been examined. At this stage when the trial is ongoing, it would not be appropriate to assess whether the allegations of negligent death under Section 304-A would not be proved and the petitioner shall be acquitted. It is, therefore, submitted that the petition be dismissed.



6. **Submissions heard.**

7. Notice under Section 304-A IPC has already been framed and the trial is ongoing. It would be pre-mature at this stage to assess the evidentiary value of the witnesses which are yet to be examined, to conclude that there was no negligence on the part of the petitioner which resulted in the demise of deceased Sunny. There can be no such prior pre-judgment of the trial.

8. The petition is without merit and is hereby dismissed.

NEENA BANSAL KRISHNA, J

SEPTEMBER 11, 2024/va