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

+ **CRL.M.C. 1692/2024**

**JATIN BAJAJ AND ORS.**

..... Petitioners

Through: Mr. Siddharth Aggarwal, Senior Advocate with Mr. Rajat Mathur, Mr. Vinayak Chitale, Ms. Nazarat Fatima, Ms. Ananya Luthra and Mr. Varun Mittal, Advocates with Petitioners in person.

versus

**THE STATE OF DELHI NCT AND ORS.**

..... Respondents

Through: Ms. Shubhi Gupta, APP for the State with SI Ram Dutt Sharma and Insp. Rajesh Vijay/SHO, PS: Bharat Nagar.

Mr. Jasbir Bidhuri, Advocate for R-2 to R-4 with Respondents No. 2 and 3 in person and Respondent No. 4 through VC.

**CORAM:**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**ORDER**

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**29.02.2024**

**CRL.M.A. 6518/2024 (exemption)**

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

**CRL.M.C. 1692/2024**

3. This petition has been filed by the Petitioners under Section 482 Cr.P.C. seeking quashing of FIR No.612/2023 dated 20.07.2023 under Sections 288/304A IPC registered at PS: Bharat Nagar including proceedings emanating therefrom.



4. Factual matrix to the extent relevant and emerging from the petition is that Petitioner No. 3 is the owner of property bearing No. A-42, Phase-3, Ashok Vihar, Delhi and Petitioners No. 1 and 2 are constructing the said building in collaboration. The construction work has been outsourced to an outside and independent contractor namely, Rakesh. Respondent No. 2 is the wife of deceased Gram Sevak Mehta while Respondent No. 3 is the Complainant and first informer of the alleged accident. Respondent No. 4 is father of the deceased Gram Sevak Mehta and is 90 years of age.

5. It is the case of the prosecution that one Sarvesh Kumar, the Complainant and first informant, who was working as a Security Guard at the construction site of the aforementioned property, informed that on 19.07.2023 at around 06:00 PM, while he was working on the top floor of the building along with other labourers, his maternal uncle, the deceased suddenly fell from the top floor. Sarvesh Kumar and other labourers took him to the hospital but he was declared brought dead by the Doctor. On the statement of Sarvesh Kumar that the incident occurred due to negligence of the owner of the building and the contractor, present FIR was registered.

6. On behalf of the Petitioners, it is argued by Mr. Siddharth Aggarwal, learned Senior Counsel that while the incident is rather unfortunate, however, it is not an outcome of any negligence on the part of the Petitioners herein. On 19.07.2023, deceased along with Respondent No. 3/Sarvesh Kumar was carrying out the work of plastering at the top floor of the under-construction building, when suddenly he fell. He was immediately taken to the hospital but could not be saved. While there can be no compensation for loss of a life, during the pendency of the criminal proceedings, with the intervention and efforts of respectable members of the



society, family members and friends of the deceased, the matter has been amicably resolved and settled and it was agreed that Petitioners shall pay a sum of Rs.6 lacs to Respondent No. 2/widow of the deceased as full and final compensation and Respondents No. 2 and 3 shall co-operate in quashing of the FIR. A Settlement Agreement was executed by Respondents No. 2 and 3, out of their own free will. Mr. Aggarwal states that a sum of Rs.40,000/- has since been paid to Respondent No. 2 and balance amount of Rs.5,60,000/- was payable at the time of quashing of the FIR. It is submitted that as the matter has been amicably resolved and the death of deceased Gram Sevak Mehta was not on account of negligence of the Petitioners, but a mere accident, interest of justice demands that the FIR be quashed.

7. Issue notice.
8. Learned APP accepts notice on behalf of the State.
9. Mr. Jasbir Bidhuri, learned counsel accepts notice on behalf of Respondents No.2 to 4.
10. Petitioners and Respondents No.2 and 3 are present in Court physically while Respondent No. 4 who is 90 years of age has joined virtually. All have been identified by their respective counsels and the Investigating Officer SI Ram Dutt Sharma PS: Bharat Nagar. Respondents No. 2 and 4 acknowledge the receipt of the total amount of Rs.6 lacs, as per the Settlement Agreement. It is stated that Rs.40,000/- was paid at the time of execution of MoU and the balance amount of Rs.5,60,000/- has been paid in Court today by way of three demand drafts.
11. During the course of the hearing, Petitioners have offered a further sum of Rs.2 lacs to Respondent No. 2. Counsel for Respondents No. 2 to 4, on instructions, states that directions be issued to the Petitioners to transfer



the said amount into the account of Respondent No. 2 bearing A/C No. 5440832306, IFSC CBIN0283034, Branch Tarsuya Begam and on receipt of Rs.2 lacs, Respondent No. 2 shall invest the same in the name of her two minor children i.e. Rs.1 lac each in the form of Fixed Deposit Receipts in the same Bank. Respondents No. 2 to 4 submit that they are satisfied that the compensation amount is adequate and possibly the fall of the deceased Gram Sevak Mehta was an accident and Petitioners cannot be held liable for negligence. In view of the settlement between the parties, learned APP does not object to the quashing of the FIR.

12. Parties have been heard at some length by the Court. Legal heirs of the deceased Gram Sevak Mehta have settled the matter with the Petitioners out of their free will and without any pressure or coercion. Death has occurred and Respondents No. 2 and 4 have lost their dear one. There can be no compensation for loss of life of a family member and no amount of money can recompense the legal heirs of the deceased. Complainant and legal heirs of the deceased, however, state that they are satisfied with the compensation amount agreed upon. Rs. 6 lacs have been paid by the Petitioners and a further sum of Rs.2 lacs has been offered in Court. Considering that parties have amicably resolved their disputes and the terms have been reduced to writing in a Settlement Agreement as also the fact that the Complainant has taken a categorical position that he does not wish to prosecute the matter any further, no purpose will be achieved in continuing with the criminal proceedings. Fall of the deceased from the top floor of the under-construction building was an unfortunate accident and no negligence can be attributed to the Petitioners, is the stand of the Complainant and in this view of the matter, the chances of conviction are extremely bleak.



13. At this stage, it would be apposite to refer to the judgment of the Supreme Court in ***Gian Singh v. State of Punjab and Another, (2012) 10 SCC 303***, the relevant paragraphs of which are as under:-

*“55. In the very nature of its constitution, it is the judicial obligation of the High Court to undo a wrong in course of administration of justice or to prevent continuation of unnecessary judicial process. This is founded on the legal maxim quando lex aliquid alicui concedit, conceditur et id sine qua res ipsa esse non potest. The full import of which is whenever anything is authorised, and especially if, as a matter of duty, required to be done by law, it is found impossible to do that thing unless something else not authorised in express terms be also done, may also be done, then that something else will be supplied by necessary intendment. Ex debito justitiae is inbuilt in such exercise; the whole idea is to do real, complete and substantial justice for which it exists. The power possessed by the High Court under Section 482 of the Code is of wide amplitude but requires exercise with great caution and circumspection.*

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*58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, 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 and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent*



*power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.*

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**61.** *The position that emerges from the above discussion can be summarised thus : the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz. : (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding*



*or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”*

14. In ***Ajay Agarwal & Ors. v. State of NCT of Delhi and Anr.***, decided on 16.05.2023, in ***CRL.M.C. No. 2899/2018***, this Court relying on the judgments of the Supreme Court and assessing the relevant facts of the case was of the view that High Court is not prohibited *per se* in entertaining petitions for quashing of FIRs involving an offence under Section 304A IPC predicated on settlements between the parties and this could be done for various reasons such as where *prima facie* there is no criminal negligence or *mens rea* or considering the socio-economic situation of the family of the deceased, it would be preferable to provide adequate compensation rather than await the conclusion of trial or where the family accepts adequate compensation and decides not to pursue the complaint, in which case it would be an exercise in futility to continue the criminal proceedings. Co-ordinate Benches of this Court have quashed FIRs under Section 304A IPC, basis the settlement between the parties. In ***Upendra Kumar v. State & Ors.***, decided on 16.05.2023 in ***CRL. M.C. 1630/2018***, this Court observed that since the matter had been settled between the parties for Rs.5,00,000/- and the legal heirs of the deceased had accepted the payment as adequate compensation, no purpose would be served in continuing the proceedings as the chances of conviction were remote. In this context, I may also refer to orders/judgments of this Court in ***Parvinder Singh v. The State & Ors.***, ***CRL.M.C. 2451/2023 dated 11.12.2023***; ***Ram Lakhan v. State of NCT of Delhi & Ors.***, ***W.P.(CRL) 3529/2023 dated 01.12.2023***; ***Mahesh Chandra***



*and Ors. v. The State and Ors., CRL.M.C. 8673/2023 dated 29.11.2023 and Smt. Omvati v. State of NCT of Delhi and Anr., 2015 SCC OnLine Del 11356.*

15. On assessment of the facts of this case, this Court is of the view that it would not be in the interest of justice to continue with the criminal proceedings emanating out of the present FIR and would instead be an abuse of process of Court. Accordingly, FIR No.612/2023 dated 20.07.2023 under Sections 288/304A IPC registered at PS: Bharat Nagar is quashed including proceedings emanating therefrom, subject to the Petitioners transferring a sum of Rs.2 lacs in the aforementioned account of Respondent No. 2 within three weeks from today and filing the proof of deposit in this Court within a week thereafter. As undertaken, Respondent No. 2 will invest the said amount in the names of her two minor children i.e. Rs.1 lac each and the FDRs will be renewed on auto-renewal mode till the children attain majority.

16. Petition stands disposed of in the aforesaid terms.

17. In case of non-compliance of the direction by the Petitioners to transfer the sum of Rs.2 lacs in favour of Respondent No. 2 within the timelines fixed by this Court, petition will be listed before Court.

**JYOTI SINGH, J**

**FEBRUARY 29, 2024/shivam**