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

+ **W.P.(CRL) 1024/2024**

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..... Petitioner

Through: Mr. S.H. Ansari, Advocate with
Petitioner in person.

versus

STATE GOVT OF NCT OF DELHI & ORS.

..... Respondents

Through: Ms. Nandita Rao, ASC for the State
with Mr. Amit Peswani, Advocate for the State
with SI Gurish, PS: Paharganj.
Mr. Jibran, Advocate with R-2 to R-4 in person.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

01.04.2024

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CRL.M.A. 9679/2024 (exemption)

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

W.P.(CRL) 1024/2024

3. This petition has been filed by the Petitioner under Section 482 Cr.P.C. seeking quashing of FIR No.776/2023 dated 28.09.2023 under Section 304A IPC registered at PS: Paharganj including proceedings emanating therefrom.
4. As per the case of the prosecution, on 28.09.2023 at about 08:00 PM, the deceased namely, Sanowar, while working under the *thekedaari* of the Petitioner/contractor, died due to electric shock in an unfortunate incident. Respondent No. 2 (cousin brother of the deceased)/complainant filed a



complaint culminating into registration of the present FIR. Respondent No. 3 is the mother of the deceased while Respondent No. 4 is his real brother.

5. Learned counsel for the Petitioner argues that while the incident is rather unfortunate, however, it is not an outcome of any negligence on the part of the Petitioner. It is urged that there can be no compensation for loss of a life, however, 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 Petitioner and one Sunil Kakkar, the owner of the house where the accident took place, shall pay a sum of Rs.18 lacs to the mother and brother of the deceased as compensation and in return Respondents No. 2 to 4 shall co-operate in quashing of the FIR. Learned counsel for the Petitioner states that a sum of Rs. 9,00,000/- has been paid earlier and balance amount of Rs.9,00,000/-, which was payable at the time of quashing of the FIR, has been paid today by way of two demand drafts (i) bearing No. 507379 dated 15.02.2024 for a sum of Rs.2 lacs in favour of Asnaj Begum drawn on ICICI Bank, Saraswati Vihar and (ii) bearing No. 283750 dated 15.01.2024 for a sum of Rs. 7 lacs in favour of Asnaj Begum drawn on Axis Bank.

6. Issue notice.

7. Learned ASC accepts notice on behalf of the State.

8. Mr. Jibran, learned counsel accepts notice on behalf of Respondents No.2 to 4.

9. Petitioner and Respondents No.2 to 4 are present in Court and are identified by their respective counsels as well as the Investigating Officer SI



Gurish, PS: Paharganj. Respondents No. 2 to 4 acknowledge the receipt of the total amount of Rs.18 lacs, as per the settlement and submit that the compensation amount is adequate and that they later learnt that the death of the deceased was an accident due to electric shock. In view of the settlement between the parties, learned ASC for the State submits that the chances of conviction are bleak and leaves the decision to the Court.

10. Parties have been heard at some length by the Court. Legal heirs of the deceased have settled the matter with the Petitioner out of their free will and without any pressure or coercion. Death has occurred and Respondents No. 2 to 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 of Rs. 18 lacs, which they have received. Considering that parties have amicably resolved their disputes 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. Death of the deceased due to electric shock was an unfortunate accident and possibly not attributable to any negligence of the Petitioner.

11. 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.”

12. 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., CRL. M.C. 1630/2018***, decided on 16.05.2023, 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***, decided on 11.12.2023; ***Ram Lakhan v. State of NCT of Delhi & Ors., W.P.(CRL) 3529/2023*** decided on 01.12.2023; ***Mahesh Chandra and Ors. v. The State and Ors., CRL.M.C. 8673/2023*** decided on 29.11.2023 and ***Smt. Omvati v. State of NCT of Delhi and Anr., 2015 SCC OnLine Del 11356***.

13. 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 the process of Court.

14. Accordingly, FIR No.776/2023 dated 28.09.2023 under Section 304A



IPC registered at PS: Paharganj is quashed including proceedings emanating therefrom.

15. Petition stands allowed and disposed of in the aforesaid terms.

JYOTI SINGH, J

APRIL 01, 2024/shivam