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

+ **CRL.M.C. 3059/2019**

J.KUMAR- CRTG(JV) THROUGH ITS
AUTHORIZED REPRESENTATIVE Petitioner

Through: Mr. Fanish Kumar Rai &
Mr. Gaurav, Advocates

versus

STATE Respondent

Through: Mr. Hitesh Vali, APP for
the State with SI Ravi
Yadav, PS Lajpat Nagar.
Wife of the Deceased in
person.

+ **CRL.M.C. 6688/2023**

SHASHANK MEHTA Petitioner

Through: Mr. Priyanshu Upadhyay &
Mr. Viraat Tripathi,
Advocates

versus

STATE OF NCT OF DELHI Respondent

Through: Mr. Hitesh Vali, APP for
the State with SI Ravi
Yadav, PS Lajpat Nagar.
Wife of the Deceased in
person.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
06.02.2024

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CRL.M.A. 25041/2023 (exemption from filing certified copies of the annexures) in CRL.M.C. 6688/2023

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CRL.M.C. 3059/2019
CRL.M.C. 6688/2023 & CRL.M.A. 25147/2023 (stay)

3. The present petitions are filed under Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') seeking quashing of FIR 439/2016 dated 03.07.2016 registered at Police Station Lajpat Nagar for offences under Sections 287/338 of the Indian Penal Code ('IPC'). The said FIR was registered on a complaint made by one, Mr. Sanjeev Kumar. The charge sheet has already been filed in the present case under Sections 287/304A/34 of the IPC.
4. It is alleged that on the unfortunate evening of 30.06.2016, the deceased, Amreesh Singh, who was employed with M/S J. Kumar-CRTG(JV), as a safety officer, met with an accident while working at the metro construction site, Nehru Nagar. It is alleged that the said accident was caused while lifting the bucket on Gantry Crane, and no safety measures were provided by the petitioner company. Amreesh Singh succumbed to injuries on 27.11.2026.
5. It is submitted that the family of the deceased has been compensated for a sum of ₹8,60,631/-, before the Commissioner, Employees' Compensation, Labour Department, Govt. of N.C.T. of Delhi.
6. The present petition is filed on the ground that the brother of



the wife of the deceased in due consultation and consent with the deceased's wife had expressed the desire to settle the present matter after receipt of the compensation amount, *vide* his hand written letter dated 03.06.2017, addressed to SHO Lajpat Nagar Police Station (**Annexure P/10**).

7. The learned Additional Public Prosecutor for the State opposes the quashing of the present case on the ground of unreasonable settlement. He submits that the amount of compensation paid to the family of the deceased was a statutory payment, which the petitioners were in any way, liable to pay.

8. The learned counsel for the petitioners, on instructions, submit that the petitioners are willing to pay a further compensation keeping in mind the fact that the children of the deceased are minor.

9. The parties are present and have been duly identified by the Investigating Officer.

10. The wife of the deceased is present in the Court today. On being asked, she submits that she does not wish to pursue the proceedings arising out the present FIR, the pendency of which would in any way, cause unnecessary inconvenience to the family of the deceased. She submits that the alleged incident was a case of accident, and she does not hold the petitioners responsible for the same. She submits that she has minor children, and wishes to live her future life peacefully, in case she is compensated.

11. Offence under Section 287 of the IPC is non-compoundable whereas offence under Section 338 of the IPC is compoundable.



12. It is well settled that the High Court while exercising its powers under Section 482 of the CrPC can compound offences which are non-compoundable under the Code on the ground that there is a compromise between the accused and the complainant. The Hon'ble Apex Court has laid down parameters and guidelines for High Court while accepting settlement and quashing the proceedings. In the case of ***Narinder Singh & Ors. v. State of Punjab & Anr. : (2014) 6 SCC 466***, the Hon'ble Supreme Court had observed as under :-

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or*
- (ii) to prevent abuse of the process of any court.*

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those



prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.”

(emphasis supplied)

13. Similarly, in the case of ***Parbatbhai Aahir & Ors. v. State of Gujarat & Anr. : (2017) 9 SCC 641***, the Hon’ble Supreme Court had observed as under :-

“16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:

16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.

16.2. The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on



the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

***16.3.** In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.*

***16.4.** While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.*

***16.5.** The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated.*

16.6.** In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. **Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

***16.7.** As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.*



16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

16.10. There is yet an exception to the principle set out in propositions 16.8. and 16.9. above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”

(emphasis supplied)

14. The present case also relates to an offence under Section 304A of the IPC where a person has died due to alleged negligence of the accused persons. Thus, while deciding whether proceedings relating to such an offence can be quashed on the basis of the settlement between the accused and family of the deceased, it is necessary to consider whether it is probable that the presented facts would constitute gross negligence and an element of *mens rea*, which is required for the purpose of conviction.

15. The Hon'ble Apex Court, in the case of **Jacob Mathew v. State of Punjab : (2005) 6 SCC 1**, while interpreting as to what constitutes a negligent act to constitute an offence under Section



304A of IPC held that gross negligence and an element of *mens rea* must be shown to exist. The Hon'ble Apex Court observed as under:

“48. We sum up our conclusions as under: ...(5) The jurisprudential concept of negligence differs in civil and criminal law. What may be negligence in civil law may not necessarily be negligence in criminal law. For negligence to amount to an offence, the element of mens rea must be shown to exist. For an act to amount to criminal negligence, the degree of negligence should be much higher i.e. gross or of a very high degree. Negligence which is neither gross nor of a higher degree may provide a ground for action in civil law but cannot form the basis for prosecution.

The word “gross” has not been used in Section 304A IPC, yet it is settled that in criminal law negligence or recklessness, to be so held, must be of such a high degree as to be “gross”. The expression “rash or negligent act” as occurring in Section 304A of the IPC has to be read as qualified by the word “grossly”...”

16. From the perusal of the FIR and the documents annexed with the present petition, it appears to be a case of accident. It is not the case of the prosecution that the accused persons had shown criminal negligence due to which the accidents happen on regular intervals and that despite that no measures were taken. The present accident seems to be one off incident for which the conviction of the petitioners does not appear to be probable. Given the fact that the family members of the deceased have already settled with the petitioners, it would be improbable to secure a conviction in the facts of the present case. The Court, thus, is of the view that the payment of compensation would serve the ends of justice.

17. It is stated that the petitioners have agreed to pay a further



compensation in the form of FDRs in the name of each child and wife of the deceased, as per the details given below:

S.No.	Details	Amount of Compensation
1.	Harsh Kumar Singh Son of the Deceased Age: 15 years A/c No.: 37111511712 IFSC: SBIN0005439	₹2,50,000/-
2.	Varsha Kumari Daughter of the Deceased Age: 13 years A/c No.: 37111498597 IFSC: SBIN0005439	₹2,50,000/-
3.	Indu Devi Wife of the Deceased Age: 34 years A/c No.: 36332459904 IFSC: SBIN0005439	₹1,00,000/-
	Total	₹6,00,000/-

18. Keeping in view the aforesaid principle, the nature of dispute and the fact that the parties have amicably entered into a settlement, this Court feels that no purpose would be served by keeping the dispute alive and it is a fit case where discretionary jurisdiction under Section 482 of the CrPC can be exercised and the proceedings are quashed.

19. The petitioners are, hereby, directed to deliver the aforementioned FDRs through the concerned Investigating Officer, and file an affidavit in respect of the same, within a period of four weeks from today. The concerned branch of State Bank of India, maintaining the bank accounts of the children, is directed to



renew the FDRs in the name of children, till they attain the age of majority. The children are at liberty to appropriate the said amount after attaining majority.

20. The Registry is directed to place the matter before this Court, in case the compliance affidavit is not filed within the said period.

21. However, keeping in mind the fact that the charge sheet has already been filed in the case arising out of FIR No. 439/2016, and the State machinery has been put to motion, ends of justice would be served if the petitioners are put to cost.

22. In view of the above, FIR No.439/2016 and all consequential proceedings arising therefrom are quashed, subject to payment of cost by the petitioners of ₹10,000/- to Delhi Police Welfare Fund and of ₹10,000/- to the Delhi High Court Legal Services Committee.

23. The present petition is disposed of in the aforesaid terms.

AMIT MAHAJAN, J

FEBRUARY 6, 2024

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