



2024:DHC:5799



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 01.08.2024

+ W.P.(CRL) 2313/2024

SH. VIJAY KUMAR JAIN

..... Petitioner

Through: Mr.Neeraj Gupta, Mr.Kamal Gupta
and Mr.Saransh Goel, Advocates with
petitioner in person

versus

STATE NCT OF DELHI AND ANR.

..... Respondents

Through: Mr.Rahul Tyagi, ASC (Crl.) with
Mr.Abhishek Tomar, Mr.Bibhash
Chandra Mishra, Mr.Abhishek Saket,
Mr.Amit Chanchal Jha, Mr.Digvijay
Singh Rawat and Mr.Sunil Pant,
Advocates alongwith HC/IO Vikas
and SI Anil Kumar, P.S. Najafgarh.
Mr.Rajat Asija, Advocate (through
VC) with respondent No.2 in person.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

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J U D G M E N TANOOP KUMAR MENDIRATTA, J (ORAL)CRL.M.A. 22576/2024

Exemption allowed, subject to just exceptions.

Application stands disposed of.

W.P.(CRL) 2313/2024

1. Petition under Article 226/227 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on



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behalf of the petitioner for quashing of FIR No. 480/2023 under Sections 288/338 IPC registered at P.S.: Najafgarh.

2. Issue notice. Learned ASC for the State and learned counsel for respondent No.2 (through VC) alongwith respondent No. 2 in person appear on advance notice and accept notice.

3. In brief, as per the case of prosecution, respondent No.2 was deployed as a labourer by contractor Kamlesh for carrying repair of wall in premises of petitioner. On 26.09.2023 at about 11:30 am, respondent No.2 fell from a height of about 10 feet, resulting in injuries on his person. Respondent No.2 alleged that no safety equipment was provided by the owner despite requests.

4. Learned counsel for the petitioner submits that for purpose of carrying of repair works, petitioner had engaged services of a contractor, namely Kamlesh and respondent No.2 had been deployed by the said contractor. He further submits that petitioner is in no manner responsible for the unfortunate accident wherein respondent No.2 sustained injuries. It is urged that petitioner duly paid expenses towards medical treatment of respondent No.2, and matter has been amicably settled with respondent No. 2, whereby compensation of Rs. 15,000/- in terms of Memorandum of Understanding (MOU) dated 19.07.2024 has been paid.

5. Learned ASC for the State, on instructions of IO, submits that case is under investigation and the contractor (Kamlesh) has not been formally arrayed as an accused. He further submits that in view of amicable settlement between the parties, he has no objection in case the FIR in question is quashed.

6. Petitioner in the present case seeks to invoke the powers under Section 482 of the Code of Criminal Procedure. The same is to be used to secure the



ends of justice or to prevent the abuse of process of Court. In which cases, the power to quash the criminal proceedings or the complaint or FIR may be used when the offender as well as victim have settled their dispute, would depend upon the facts and circumstances of each case and no generalized list or categories can be prescribed. However, the Court is required to give due regard to the nature and gravity of the offence and consider the impact on the society.

7. It may also be observed that heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot be appropriately quashed despite settlement. However, distinguished from serious offences, the offences which have predominant element of civil dispute or offences involving minor incidents, where the complainant/victim also stands compensated for loss, if any, stand on a different footing, so far as exercise of inherent powers under Section 482 Cr.P.C. is concerned. The High Court also is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. It may also be assessed, if in view of compromise between the parties, the possibility of conviction in such a case is remote and whether continuation of proceedings would cause grave oppression and prejudice the accused.

8. Petitioner and respondent No. 2 are present in person and have been identified by HC/IO Vikas, P.S. Najafgarh. I have interacted with the parties and they confirm that the matter has been amicably settled between them without any threat, pressure or coercion. Respondent No. 2 submits that since all the disputes between the parties have been amicably settled, nothing



remains to be further adjudicated upon and he has no objection, in case the FIR in question is quashed.

9. It needs to be kept in perspective that in criminal cases involving negligence, amount and degree of negligence are the determining factors. Criminal negligence is the gross and culpable neglect or failure to exercise reasonable and proper care and precaution to guard against the injury either to the public generally or to an individual in particular, which having regard to the circumstances of the case, accused was under a duty to adopt.

The injuries suffered by respondent No. 2 in the present case are accidental. Since the matter has been amicably settled between the parties and respondent No. 2 has been duly compensated, no useful purpose shall be served by keeping the case pending. Continuation of proceedings would be nothing but an abuse of the process of Court. Considering the facts and circumstances, since the matter has been amicably settled between the parties, no useful purpose shall be served by keeping the case pending. The chances of conviction are bleak in view of amicable settlement between the parties. Consequently, FIR No. 480/2023 under Sections 288/338 IPC registered at P.S.: Najafgarh and proceedings emanating therefrom stand quashed.

10. In the facts and circumstances, instead of imposing the costs upon the petitioner, he is directed to plant 50 saplings of neem trees, which are upto 03 feet in height in the area of P.S. Najafgarh after getting in touch with the competent authority (i.e. Horticulture Department of MCD/DDA/ Conservator of Forests, Department of Forests & Wildlife, Govt. of NCT of Delhi) through IO/SHO, P.S. Najafgarh. The photographs of planted saplings alongwith report of IO/SHO concerned shall be forwarded to this Court



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within eight weeks. Further, the upkeep of the saplings/trees shall be undertaken by the authorities concerned. In case of non compliance of directions for planting of neem trees, the petitioner shall be liable to deposit cost of Rs. 25,000/- with the Delhi State Legal Services Authority.

Petition is accordingly disposed of. Pending applications, if any, also stand disposed of.

ANOOP KUMAR MENDIRATTA, J.

AUGUST 01, 2024/v