



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

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*Reserved on : 21.12.2023*

*Pronounced on : 21.02.2024*

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**CRL.M.C. 8560/2023**

SUDHIR JAIN & ANR.

..... Petitioners

Through: Mr. Aman Lekhi, Sr. Advocate with  
Mr. Sanjay Diwan, Mr. Rakesh  
Malhotra, Mr. Bharat Malhotra, Mr.  
Anish Diwan, Mr. Sahil Ahuja, Mr.  
Kushal Malhotra, Mr. Aniket Seth  
and Mr. Ujjwal Sinha and Mr. Kunal  
Bahri, Advocates.

versus

THE STATE (NCT OF DELHI) & ANR.

..... Respondents

Through: Mr. Raghuinder Verma, APP for the  
State with Insp. Afsar Raza, PS  
Prasad Nagar.  
Mr. Surender Kumar Sharma,  
Advocate for R-2 along with R-2 in  
person.

**CORAM:**

**HON'BLE MR. JUSTICE RAJNISH BHATNAGAR**

### **JUDGMENT**

**RAJNISH BHATNAGAR, J.**

1. This is a petition filed by the petitioners under Section 482 Cr.P.C. seeking quashing of FIR No. 471/2022 under Sections 279/337/307/427/109 IPC and Sections 3/181/185/188 of Motor Vehicles Act registered at Police



Station Prasad Nagar and all proceedings emanating therefrom.

2. In brief the facts of the case are that on 19.09.2022, a PCR Call was received in Police Station Prasad Nagar, Delhi vide DD No. 61 at 20:31 hrs and the PCR call was marked to ASI Ishwar who alongwith Ct. Akhilesh went to the place of incident where the driver of the offending vehicle, namely, Sudhir Jain (Petitioner herein) was present. The injured, namely, Himanshu had already been shifted to BLK Hospital so ASI Ishwar rushed to BLK Hospital and found the injured to be admitted in the said hospital vide MLC No. 572/22 in which the Doctor mentioned "*Alleged H/o RTA at Padam Singh Road. Pt hit by moving car. No. DL 7C9954 H/o LOC/ Vomitting/ Convulsion/ ENT Bleeding. OE conscious, oriented*". Thereafter, the statement of injured-Himanshu s/o Sh. Ranvir Singh R/o 5550/74, Regarpura, Padam Singh Road, Karol Bagh New Delhi, Age 26 yrs was recorded in which he stated that he has a shop of disposable paper, plates items on the ground floor of his house and at about 7:30 PM while he was parking his scooty around the front of his shop, he was hit by the offending vehicle No. DL7CG9954. The offending vehicle dragged him with his scooty for a few metres resulting in injuries to him and damage to his scooty and other vehicles parked on the roadside. It is further alleged that he suffered injuries because of rash and negligent driving by the driver of the offending vehicle who was in a drunken state.

3. On the basis of the statement of the injured/complainant, the case vide FIR No. 471/2022 Dated 19.09.2022 under Sections 279/337 IPC was got registered at Police Station Prasad Nagar.



4. During investigation, all the vehicles including the offending car i.e., white Fortuner (DL 7C 9954), damaged scooty (DL6SAS 3696) and other damaged vehicles i.e., one Hyundai I-10 bearing (DL 2C AR3274), one Maruti Wagon R (DL 8C AW 7742) and one Cycle rickshaw were seized in this case. The injury received by the complainant-Himanshu was found to be grievous in nature and thus, Section 337 IPC was replaced with Section 338 IPC. The charge sheet under Sections 279/338 IPC and 3/181 MV Act was filed on 22.12.2022 before the Ld. trial Court while the DAR was also filed before Ld. MACT (Central), Tis Hazari Courts, Delhi.

5. Subsequently, on 05.10.2023 DAR in cancellation form was submitted in MACT No. 986/2022 and MACT No. 206/2022. On 18.11.2023, both the parties submitted that they had amicably settled in terms of the MOU dated 09.11.2023 for a total sum of Rs. 35,00,000/- and out of the said settlement amount, a sum of Rs. 5,00,000/- has already been received by the complainant. Vide Order dated 18.11.2023, statements of both the parties were accepted by the Ld. MACT in MACT No. 986/2022 and MACT No. 206/2022, and the same were disposed of as settled.

6. Learned Sr. Counsel for the petitioners submitted that the parties have settled the matter amicably in terms of the Memorandum of understanding dated 09.11.2023. He submitted that the petitioners and respondent No.2 have decided to withdraw the complaint and seek quashing of FIR with their mutual consent thoughtfully and willingly, and there is no threat, force, fraud or undue influence acting upon them to have come to this decision of settlement by way of mutual consent. He further submitted that the FIR against the petitioners is misconceived and is an abuse of the



process of law being infested with incorrect facts and baseless assumptions as even if for the sake of arguments, the allegations made by the prosecution are considered to be true, there was neither any motive nor intention to kill the complainant/respondent No. 2 and as such the petitioners cannot said to have committed an offence punishable under Section 307 of IPC. He further submitted that in order to establish an offence under Section 307 of IPC, there must be intention or knowledge pertaining to the commission of the act however, in the present case, the petitioners neither possessed the requisite mens rea nor engaged in any act that would warrant the invocation of Section 307 IPC, additionally, the alleged act of consuming alcohol does not fall within the purview of Section 307 IPC.

7. Learned Sr. Counsel for the petitioners contended that the inclusion of the offence under Section 307 IPC has been made hastily and without due consideration of the absence of elements required to constitute to the said offence and it is imperative to note that the Section 307 IPC explicitly requires the commission of an act with the intent to cause death, which fails to achieve the intended result due to intervening circumstances. He further submitted that in the absence of the essential elements of intention or knowledge, as mandated by Section 307 IPC, there can be no valid charge of ‘attempt to commit murder’ and the same has been wrongly invoked by the police officials on 03.02.2023, during the proceedings before the Ld. MACT. He further submitted that the petitioner no.1 is a senior citizen and prior to the alleged incident had no criminal antecedents whatsoever. Lastly, Ld. Sr. counsel for the petitioners submitted that as the parties have mutually resolved their conflict and differences, the trial would be nothing but a mere



exercise in futility and therefore, prays that the FIR No. 471/2022 be quashed.

8. Learned Counsel for Respondent No. 2 submitted that he has settled the matter amicably with the petitioners for a sum of Rs 35,00,000/- vide MOU dated 09.11.2023. He further submitted that the settlement/compromise has taken place voluntarily, without any force, pressure or coercion and nothing remains to be adjudicated further between them and thus, he has no objection if the FIR in question is quashed.

9. Learned APP for the State submitted that in view of the settlement, the State has no objection if the FIR in question be quashed.

10. In the present case, the main chargesheet was filed under Sections 279/338 IPC and 3/181 Motor Vehicles Act, however, the IO later on filed the supplementary chargesheet invoking Sections 307/ 427 /109 IPC, therein noting that the complainant, namely, Himanshu had filed a protest petition on the findings of the chargesheet, objecting to the invocation of the minor sections and also, submitted that there was a verbal spat between the complainant/injured and the accused/petitioner no.1 which resulted into this incident.

11. Keeping in view the facts of this case, initially the FIR was registered under Sections 279/337 IPC but since the injuries were found to be grievous in nature, Section 337 was replaced by Section 338 IPC which subsequently got converted into Sections mentioned hereinabove for the reasons stated above.



12. Perusal of the records of the case shows that on 05.10.2023, DAR in cancellation form was submitted in MACT No. 986/2022 and MACT No. 206/2022 and on 18.11.2023, both the parties submitted that they had amicably settled in terms of the MOU dated 09.11.2023 for a total sum of Rs. 35,00,000/-. Vide Order dated 18.11.2023 passed by the Ld. PO, MACT-01, statements of both the parties were accepted in MACT No. 986/2022 and MACT No. 206/2022, and the same were disposed of as settled.

13. From the chargesheet filed in this case, it appears that only on the basis of the objections raised by the complainant/respondent no. 2 that the Sections invoked were minor in nature and there was a verbal spat between the complainant/injured and petitioner no. 1/accused, the IO invoked Section 307/ 427 IPC without further mentioning any reasons whatsoever for invoking these sections.

14. Be that as it may, since the parties have already settled their disputes for a sum of Rs. 35,00,000/- vide MOU dated 09.11.2023, nothing remains to be adjudicated further between them.

15. Therefore, keeping in view the above facts and circumstances, since the matter has been amicably settled between the parties, no useful purpose will be served by keeping the case pending. It will be nothing but abuse of the process of law. Consequently, this petition is allowed and FIR No. 471/2022 under Sections 279/337/307/427/109 IPC and Sections 3/181/185/188 of Motor Vehicles Act, registered at Police Station Prasad Nagar, Delhi, and the proceedings emanating therefrom shall stand quashed.



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16. The present petition stands disposed of accordingly.

**RAJNISH BHATNAGAR, J**

**FEBRUARY 21, 2024**

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