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

+ CRL.M.C. 6455/2019, CRL.M.A. 42662/2019 &
CRL.M.A. 23624/2022

GYAN DASS @ CHHOTU & ANRPetitioners

Through: Mr. S.K. Dubey, Sr. Adv.
with Mr. Rajmangal
Kumar, Adv.
Petitioners in person

versus

STATE OF NCT DELHI & ORSRespondents

Through: Mr. Ajay Vikram Singh,
APP for the State
SI Mohit Chahar, PS-
Vijay Vihar
R2 to R4 in person

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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27.08.2024

1. The present petition is filed seeking quashing of FIR No. 1016/2016 dated 01.11.2016, registered at Police Station Vijay Vihar, for offences under Sections 287/337 of the Indian Penal Code, 1860 ('IPC'), including all consequential proceedings arising therefrom. Chargesheet was filed against Petitioner No.1 for the offences under Sections 288/304A of the IPC.
2. It is averred that M/s VRC Construction Indian Pvt. Ltd. was awarded the construction work of Block C & D, extended basement, MLCP Block of the Rajiv Gandhi Cancer Institute and Research Centre, Sector-5, Rohini, New Delhi-110085. Petitioner No.1 is working as the Safety Officer at various sites of the concerned company since the year 2007. Petitioner No.2 was the Project Manager of the concerned company.
3. It is alleged that when the victim, namely, Deepak Murmur, was working at the construction site at Rajiv Gandhi Cancer Institute, he fell from the service wall and sustained



serious injuries in the accident. The victim was initially rushed to the emergency ward of Rajiv Gandhi Cancer Institute and later shifted to Sri Balaji Action Medical Institute, Paschim Vihar, New Delhi for better treatment. Despite the same, the victim expired on 01.11.2016 during the course of treatment.

4. The learned counsel for the petitioners submits that no case of negligence is made out against the petitioners as sufficient safety measures were provided to the workers. He submits that the accident happened despite adequate precautions taken at the project site.

5. He submits that the legal representatives of the victim have been duly compensated as well.

6. The present petition is filed on the ground that the matter is amicably settled between the legal representatives of the victim and the petitioners, on their own free will, without any coercion, pressure or undue influence.

7. It is pointed out that the legal representatives of the deceased have already received a compensation amount of ₹8,91,752/- vide Disbursement Order dated 28.03.2017, passed by the learned Commissioner (under Employees' Compensation Act, 1923), District North-West, Labour Welfare Centre, Nimri Colony, Ashok Vihar, Phase-IV, Delhi-110052. In addition to the said compensation amount, the amount of ₹4,00,000/- is paid by M/s VRC Construction Indian Pvt. Ltd. today in Court in the following manner:

S. No.	DD No.	Date	In the name of	Amount (₹)
1.	023081	23.08.2024	Sona (mother of victim/ Respondent No.4)	50,000/-
2.	023082	23.08.2024	Kishun Murmu (father of victim/ Respondent No.3)	50,000/-



3.	023080	23.08.2024	Anjali Hembrom (widow of victim/ Respondent No.2)	1,00,000/-
4.	023079	23.08.2024	Ayushman Murmu (son of victim)	1,00,000/-
5.	023078	23.08.2024	Dipika Murmu (daughter of victim)	1,00,000/-

8. The demand drafts drawn in favour of the children of the victim, that is, Ayushman Murmu and Dipika Murmu, have been handed over to Respondent No.3.

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

10. Respondent Nos. 2 to 4, on being asked, state that they do not wish to pursue the proceedings arising out of the present FIR, and have no objection if the proceedings are quashed.

11. Offences under Sections 288 and 304A of the IPC are non-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 relates to offences under Section 304A/288 of the IPC where a person has died due to the 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 persons and family of the victim, 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***, held that for a negligent act to constitute an offence under Section 304A of IPC, it is necessary that the degree of negligence is much higher and *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 chargesheet, it appears to be a case of an accident. Certain photographs have been annexed to show that adequate safety measures were taken at the construction site. Admittedly, there was no eye witness to the incident. It is not alleged that the accidents occurred on a regular basis at the construction site and despite that no steps were taken to rectify the errors. It is also not the case of the prosecution that the accused persons had shown criminal negligence or that they deliberately omitted to take necessary precautions due to which the accident took place. Moreover, the conviction of the petitioners in the present case does not appear to be probable given the fact that the petitioners and Respondent Nos. 2 to 4 have already settled the matter.

17. The Court, thus, is of the view that the payment of compensation would serve the ends of justice and no useful purpose would be served by keeping the dispute alive and continuance of the proceedings would amount to abuse of the process of Court. I am of the opinion that this is a fit case to exercise discretionary jurisdiction under Section 482 of the CrPC.

18. However, keeping in mind the fact that chargesheet has already been and the State machinery has been put to motion, this Court feels that the ends of justice would be served if the petitioners are put to cost.

19. In view of the above, FIR No. 1016/2016 and all consequential proceedings arising therefrom are quashed, subject to payment of a total cost of ₹25,000/- by the petitioners, out of



which ₹15,000/- is to be deposited with the Delhi Police Welfare Society and ₹10,000/- is to be deposited with the Dwarka Court Bar Association, within a period of six weeks from date.

20. Let the proof of deposit of cost be furnished to the concerned SHO/IO.
21. The present petition is allowed in the aforesaid terms.
22. Pending applications also stand disposed of.

AMIT MAHAJAN, J

AUGUST 27, 2024
“SS”