



\$~64

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

+ **W.P.(CRL) 3623/2023**

RAKESH SHARMA

..... Petitioner

Through: Ms. Urvashi Bhatia, Advocate along
with Petitioner in person.

versus

STATE NCT OF DELHI AND ORS.

..... Respondents

Through: Mr. Sanjeev Bhandari, ASC (Crl.) for
State with Mr. Kunal Mittal, Mr. Arjit Sharma and
Ms. Rishika, Advocates along with SI Satyam
Gupta, PS: Anand Parbat.
Mr. Ashish Mundhare, Advocate for R-2 & 3.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

02.02.2024

%

1. This petition has been filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C. seeking quashing of FIR No.662/2014 dated 22.12.2014 under Section 304A IPC registered at PS: Anand Parbat, including proceedings emanating therefrom, predicated on a mutual settlement between the parties.

2. As per the case of the Prosecution, on 22.12.2014, a PCR call vide DD No. 07A was received at PS: Anand Parbat, Delhi, regarding death of a worker in a factory. On reaching the site i.e. Factory No. P-8, Gali No. 4, Rakesh Electrical, Industrial Area, Anand Parbat, Delhi, a dead body was found in the lift box. The deceased was identified as Pintoo S/o Bhuneswar Ram R/o 2/62, Harijan Basti, New Rohtak Road, Delhi, aged 18 years.



Crime team was called and spot was inspected and photographed. Investigation revealed that no lift operator was deputed and no training of lift operation was given to any worker by the factory owner. On enquiry, the name of the factory owner was revealed as Rakesh Sharma i.e. Petitioner herein. Dead body of the deceased was shifted to Maulana Azad Medical College and present FIR was registered. Post-mortem was conducted and lift was got inspected by the concerned officer, who subsequently rendered an inspection report. Petitioner was arrested and released on bail. On completion of investigation, charge sheet was filed on 11.02.2016 and prosecution evidence stands closed before the Trial Court.

3. It is stated in the petition that Petitioner runs a factory unit under the name of M/s Rakesh Electricals, where small electrical parts are manufactured. Deceased Pintoo was employed as a helper in the factory on 04.12.2014, at a salary of Rs.8,632/- per month. As the circumstances and the investigation indicate, on the intervening night of 22.12.2014 and 23.12.2014, around 4:00 A.M, deceased went to the third floor of the factory premises using the industrial lift, perhaps to use the washroom and while coming back, he climbed down one floor using the stairs and came on the second floor of the factory. On account of darkness, he may not have been able to see clearly and under an impression that the lift was parked on the second floor, whereas it was parked on the third floor, when he forced open the door of the lift box, he fell in the empty shaft and sustained injuries. No doubt this was unfortunate incident, but it was a mere accident and Petitioner cannot be blamed of negligence.

4. Learned counsel for the Petitioner submits that during the pendency of the criminal proceedings, parties have amicably resolved the matter. Parents



of deceased Pintoo, namely, Sh. Bhuneswar Ram (father) and Smt. Sakali Devi (mother) had filed a claim petition against the Petitioner before the Commissioner, Employees Compensation, Labour Department, Government of NCT of Delhi under the Employee's Compensation Act, 1923, wherein compensation to the tune of Rs.9,05,520/- has been awarded in their favour. Petitioner did not challenge the award and has paid the compensation amount. Memorandum of Understanding/Settlement Deed has been executed between the Petitioner and Respondents No.2 and 3 on 02.12.2023, copy of which has been placed on record. It is submitted that an additional sum of Rs.2,00,000/- has been paid to the legal heirs of the deceased and the FIR be quashed in terms of the settlement.

5. Petitioner and legal heirs of the deceased have been identified by the concerned IO. Parents of the deceased acknowledge receipt of the compensation amount under the award and the additional sum offered by the Petitioner and state that they have no objection to the quashing of the FIR. They have expressed that the compensation awarded is adequate.

6. Learned ASC for the State submits that since this FIR was registered way back in the year 2014 and the evidence stands concluded, if the Court is inclined to quash the FIR, Petitioner should be put to some terms for having used the State machinery.

7. Parties have been heard. Indisputably, the matter has been amicably settled and terms of settlement are incorporated in a written MoU executed between the Petitioner and parents of the deceased. Settlement terms have been complied with. Parents of the deceased are categorical in their stand that they do not wish to pursue this litigation any further.



8. 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.

xxx

xxx

xxx

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.

xxx

xxx

xxx

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.”

9. 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: *prima facie* there is no criminal negligence or *mens rea*; considering the socio-economic condition 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.

10. On assessment of the facts and circumstances of this case, I am of the view that it would be in the interest of justice to put a quietus to the matter, considering that the legal heirs of the deceased Pintoo have amicably settled the matter with the Petitioner and have received the compensation/settlement amount. While there can be no dispute that a loss of life of a family member can never be compensated in monetary terms and any amount of compensation cannot bring back the 18 years old son of Respondents No.2 and 3, who was their only hope for future and the earning hand, however, the compensation amount paid to the parents of the deceased may help tide over their immediate penury, on account of loss of an earning member. Circumstances brought forth during the hearing point to possibility of an accidental fall of the deceased in the empty shaft of the lift due to darkness. In these circumstances, no purpose will be achieved in keeping the criminal proceedings pending as the chances of conviction are remote and bleak. Therefore, FIR No.662/2024 dated 22.12.2014 under Section 304A IPC registered at PS: Anand Parbat is hereby quashed along with proceedings emanating therefrom, subject to payment of Rs.20,000/- by the Petitioner in favour of DHCBA Lawyers Social Security & Welfare Fund, bearing A/c no. 15530100009730, UCO Bank, Delhi High Court Branch, within twelve weeks from today. Proof in support thereof shall be filed with the Registry within one week thereafter and in case of failure to comply with the said direction, petition will be listed before Court by the Registry.



11. Petition stands disposed of in the aforesaid terms.

FEBRUARY 02, 2024/kks

JYOTI SINGH, J