



2024:DHC:6725



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 03.09.2024

+ CRL.M.C. 6932/2024

ANIL KUMAR

.....Petitioner

Through: Mr. R. K. Shukla, Advocate with
petitioner in person.

versus

STATE NCT OF DELHI AND ANR

.....Respondents

Through: Ms. Meenakshi Dahiya, APP for the
State with Ms. Heena Kaushik, Ms.
Kirit Mohan Bhattarcharya, Mr.
Hitender, Ms. Kanishka Negi, Ms.
Ankita Kaushik and Ms. Vasuchit
Anand, Advs. and with SI Deependra,
P.S.: Sagarpur.

R-2 in person and R-3 (through VC)

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

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J U D G M E N T**ANOOP KUMAR MENDIRATTA, J (ORAL)****CRL.M.A. 26512/2024**

Exemption allowed, subject to just exceptions.

Application stands disposed of.

CRL.M.C. 6932/2024

1. Petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') has been preferred on behalf of the petitioner for quashing of FIR No. 106/2018 under Sections 288/337 IPC registered at P.S.: Sagarpur and proceedings emanating therefrom.
2. Issue notice. Learned APP for the State and respondent No.2 (in person) along with respondent no. 3 (through VC) appear on advance notice



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and accept notice.

3. In brief, as per the case of prosecution, present FIR was registered on 06.04.2018 on complaint of respondent no. 2 who alleged that during construction work that was being carried out by petitioner in the adjacent premises, a part of wall fell on roof of his house. Consequently, the roof of his house was damaged and injuries were sustained by his daughter Pooja (respondent no. 3). The incident is alleged to have occurred due to negligence on the part of petitioner.

4. Learned counsel for the petitioner submits that both petitioner and respondent no. 2 are neighbours and despite all precautions, unfortunate incident had occurred during the course of construction. It is pointed out that respondent no. 3 (daughter of respondent no. 2) suffered only minor injuries and was discharged on the same day. He further submits that petitioner has also paid expenses towards medical treatment of respondent no. 3 (daughter of respondent no. 2) and matter has been amicably settled, in terms of Settlement Agreement dated 18.08.2021.

5. Learned APP for the State that in view of amicable settlement between the parties, she 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, respondent No. 2 (in person) and respondent no. 3 (through VC) have been identified by with SI Deependra, P.S.: Sagarpur. 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 and 3 submits that since all the disputes between the parties have been amicably settled, nothing remains to be further adjudicated upon and they have 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



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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.

10. The injuries suffered by respondent No. 3 in the present case are minor and 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. Also the chances of conviction are bleak in view of amicable settlement between the parties. Considering the facts and circumstances, FIR No. 106/2018 under Sections 288/337 IPC registered at P.S.: Sagarpur and proceedings emanating therefrom stand quashed.

11. In the facts and circumstances, instead of imposing the costs upon the petitioner, he is directed to plant 30 saplings of neem trees, which are upto 03 feet in height in the area of P.S. Sagarpur 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. Sagarpur. The photographs of planted saplings alongwith report of IO/SHO concerned shall be forwarded to this Court 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. 30,000/- with the Delhi State Legal Services Authority.

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

ANOOP KUMAR MENDIRATTA, J.

SEPTEMBER 03, 2024/