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

+ **CRL.M.C. 5441/2019**

VIPUL

.....Petitioner

Through: Mr. Vijay Kumar Gupta,
Adv. along with petitioner.

versus

STATE & ANR.

.....Respondents

Through: Mr. Sunil Kumar Gautam,
APP for the State with SI
Kulbir Singh PS- Hari
Nagar.
R-2 in person along with
LRs.

+ **CRL.REV.P. 492/2012**

VIPUL

.....Petitioner

Through: Mr. Vijay Kumar Gupta,
Adv. along with petitioner.

versus

STATE

.....Respondent

Through: Mr. Sunil Kumar Gautam,
APP for the State with SI
Kulbir Singh PS- Hari
Nagar.
R-2 in person along with
LR Prakash Kaur.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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09.10.2024

**CRL.M.A. 30576/2024 (for restoration) in CRL.M.C.
5441/2019 &**

**CRL.M.A. 30670/2024 (for restoration) in CRL.REV.P.
492/2012**

1. For the reasons mentioned in the applications, the same are



allowed.

2. The petitions are restored to their original numbers
3. The applications stand disposed of.

CRL.M.C. 5441/2019 & CRL.REV.P. 492/2012

4. The petition, being, CRL.M.C. 5441/2019, is filed seeking quashing of FIR No.828/1996 dated 13.11.1996, registered at Police Station Hari Nagar, for offences under Sections 279/337/304A of the Indian Penal Code, 1860 ('IPC'), including all consequential proceedings arising therefrom.

5. The FIR was registered on a complaint filed by Mr. Tarsem (Respondent No.2 in CRL.M.C. 5441/2019) alleging that on 13.10.1996, when the victim (father of Mr. Tarsem) was weaving a cot in the Gali, a Maruti car driven by the petitioner came inside the Gali at a very fast speed and struck the victim. It is alleged that the victim came under the front wheels of the offending car and the victim was dragged for a considerable distance. The victim was taken to DDU Hospital where he was declared as brought dead.

6. The learned Trial Court, by judgment dated 21.04.2011, convicted the petitioner for the offences under Sections 279/304A of the IPC. By order dated 25.04.2011, the petitioner was sentenced as under:

- a. to undergo rigorous imprisonment for a period of one month and to pay a fine of ₹500/-, and in default of payment of fine, to further undergo rigorous imprisonment of 15 days for the offence under Section 279 of the IPC; and
- b. to undergo rigorous imprisonment for a period of one year and to pay a fine of ₹500/-, and in default of payment of fine, to further undergo rigorous



imprisonment of 15 days for the offence under Section 279 of the IPC.

c. The sentences were directed to run concurrently.

7. The judgment on conviction dated 21.04.2011 and order on sentence dated 25.04.2011 were challenged by the petitioner before the learned Sessions Court in Criminal Appeal No. 18/11. The learned Appellate Court confirmed the sentence and conviction of the petitioner by judgment dated 28.07.2012.

8. The same were further challenged by the petitioner before this Court in Crl. Rev. P. 492/2012. By order dated 16.10.2012, in Crl. Rev. P. 492/2012, this Court had suspended the sentence of the petitioner during the pendency of the revision petition.

9. The learned counsel for the petitioner submits that the legal heirs of the victim and the petitioner have since entered into a settlement, pursuant to which the present petition was filed.

10. He submits that it is settled law that the parties can enter into a settlement post conviction and the proceedings can be quashed by this Court by exercising the inherent power under Section 482 of the Code of Criminal Procedure, 1973 ('CrPC').

11. The present petition is filed on the ground that the matter has been settled by way of Memorandum of Understanding dated 04.10.2019, without any force, fear, coercion, inducement or pressure of any kind. In terms of the settlement, the petitioner was required to pay a sum of ₹2 lakhs at the time of quashing of the FIR.

12. At the request of the learned counsel for the petitioner, the parties were referred to mediation by this Court on 24.05.2024, so that the compensation amount could be paid proportionately.

13. Pursuant to the same, the legal heirs of the victim and the petitioner entered into a settlement dated 02.09.2024, before the
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Delhi High Court Mediation and Conciliation Centre, of their own free will, without any coercion, force, or undue influence. It was noted that the victim was survived by his son (Mr. Tarsem) and two daughters– Ms. Surjit Kaur and Ms. Prakash Kaur. It was further noted that Ms. Surjit Kaur had also died in the year 2018, therefore, her legal heirs were added as confirming parties.

14. In terms of Settlement Agreement dated 02.09.2024, out of the total settlement amount of ₹5,00,000/-, an amount of ₹3,50,000/- already stands paid to Mr. Tarsem and the balance amount of ₹1,50,000/- has also been paid to Ms. Prakash Kaur.

15. The petitioner is present before this Court in person along with Ms. Prakash Kaur and Mr. Tarsem. They have been duly identified by the Investigating Officer.

16. Mr. Tarsem and Ms. Prakash Kaur, on being asked, state that they are satisfied with the compensation amount. They further state that the incident happened in the year 1996 and, at this stage, when almost 30 years have passed, they do not wish that the applicant should go to jail. They submit that they have no objection if the proceedings are quashed.

17. In the present case, the compromise has been reached between the parties after the conviction of the petitioner.

18. The Court in exercise of the power under Section 528 of the BNSS is empowered to pass orders to secure the ends of justice. While the High Court should be slow in quashing the proceedings when the parties compromise the matter at a belated stage, however, the High Court is not precluded from quashing the conviction upon settlement between the victim and the accused person. The Hon'ble Apex Court, in the case of **Ramgopal v. State of M.P. : (2022) 14 SCC 531**, had observed as under:



“12. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482CrPC, even if the offences are non-compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyse the very object of the administration of criminal justice system.

13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are predominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extraordinary power under Section 482CrPC would be to secure the ends of justice. There can be no hard-and-fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482CrPC may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in *Narinder Singh v. State of Punjab* [*Narinder Singh v. State of Punjab*, (2014) 6 SCC 466, para 29 : (2014) 3 SCC (Cri) 54] and *Laxmi Narayan* [*State of M.P. v. Laxmi Narayan*, (2019) 5 SCC 688, para 15 : (2019) 2 SCC (Cri) 706].”

(emphasis supplied)

19. However, in the present case, the petitioner has been convicted for the offences under Sections 279/ 304A of the IPC. It cannot be denied that the said offences are not compoundable and are grave in nature.

20. It is also pertinent to note that the learned Trial Court and
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the learned Appellate Court have convicted the petitioner after duly appreciating the testimonies of the prosecution witnesses. It was noted that the eye witnesses to the accident had turned hostile when they were recalled for cross-examination. One eye witness (PW3) stated that the offending vehicle was not being driven by the petitioner and the other (PW2/ Mr. Tarsem) had stated that he had not witnessed the accident and he had taken the petitioner's name at the instance of the police. The learned Trial Court and the learned Appellate Court rightly appreciated that the depositions of the hostile witnesses can be relied upon and noted that the said witnesses had supported the case of the prosecution in their initial cross-examination.

21. However, it cannot be ignored that the offences under Sections 279/304A of the IPC do not carry any minimum sentence. While the offence under Section 279 of the IPC is punishable with imprisonment of either description for a term which may extend to six months, or with fine, or both, the offence under Section 304A of the IPC is punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

22. It is pointed out that the petitioner has suffered imprisonment of 62 days in the present case. The accident took place way back in the year 1996 and the parties have been pursuing the matter for over twenty-five years. It is pointed out that the petitioner at the time of the incident was young. It is also relevant to note that the first settlement was signed by the parties way back in the year 2019, despite which, the matter is still pending. The legal heirs of the victim have stated that they do not wish to pursue the matter and they are satisfied with the compensation amount.



23. The Hon'ble Apex Court, in the case of ***Ramdas v. State of Madhya Pradesh : (2009) 4 SCC 57***, in a case involving conviction for the offence under Section 324 of the IPC, had commuted the sentence of 3 years to the period already undergone, that is, fifteen months, by factoring in that the appellant therein had been prosecuting the matter before various Courts for over fourteen years.

24. Keeping in view the nature of the dispute and that the parties have amicably entered into a settlement, even though the petitioner has been convicted in the matter, this Court feels that no useful purpose would be served by subjecting the petitioner to undergo further incarceration and continuance of the proceedings would amount to abuse of the process of Court.

25. In view of the above, without interfering in the conviction of the petitioner, the sentence of one year is reduced to the imprisonment already suffered by the petitioner.

26. The bail bond and surety furnished by the petitioner shall stand discharged.

27. The present petitions are disposed of in the aforesaid terms.

AMIT MAHAJAN, J

OCTOBER 9, 2024

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