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

+ **CRL.M.C. 9320/2023**

RAVI GUPTA

.....Petitioner

Through: Mr. Vinay Duggal, and Mr. Aman
Mudgal & Mr. Radhe Shyam,
Advocates.

versus

STATE OF NCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Hitesh Vali, APP for the State
with SI Sunder Singh, P.S. Nangloi.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

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30.01.2025

1. The present petition under Section 482 of the Cr.P.C. has been filed seeking the following prayers: -

“In view of the submissions made above, it is therefore most respectfully prayed that this Hon'ble Court may kindly be pleased:

a) To quash the FIR No. 390/2022, P.S. Nangloi, under Sections 287/304A IPC and the proceedings arising there from including the charge-sheet.

b) To pass such other or further order as this Hon'ble Court may deem fit in the facts and circumstances of the present case.”

2. The brief facts of the case as per the status report authored by Insp. Rajesh Kumar, Station House Officer, PS Nangloi, Delhi, are as follows: -

“It is submitted that on dated 21.05.2022 information through MLC vide DD No. 54A was received at PS Nangloi from Sehgal Hospital Meera Bagh, Paschim Vihar, Delhi. The information was entrusted to ASI Mukesh Mukesh No. 675/OD for necessary action. On reaching the hospital ASI Mukesh obtained MLC No. B-2291/2022 of patient namely Bijender Paswan S/o Tarkeshwar PASwan Rio H.No. 54, IG Colony, Kunwar Singh Nagar, Delhi, Age 25 years who was declared brought dead by the doctor.

That on the MLC the doctor has opined "**A/H/O Electric Shock at**



workplace factory at Mundka New Delhi as told by and brought by at around 10:45 AM and patient declared brought dead at arrival”.

That on the instance of co-worker/eye witness Jaiprakash S/o Ganga Ram Rio A- 35, 2nd floor, Shiv Vihar, JJ Colony, Uttam Nagar, Delhi, Age 36 years the place of occurrence i.e. Imperial International Factory situated at K. No. 76/24 Swaran Park, Nangloi, Delhi was visited and inspection and photography of the spot was got conducted by the mobile crime team outer district.

That on the statement of co-worker/eye witness Jaiprakash S/o Ganga Ram Rio A- 35, 2nd floor, Shiv Vihar, JJ Colony, Uttam Nagar, Delhi, Age 36 years the present case was registered. During the course of investigation cctv footage of the incident was taken from the DVR installed at the place of occurrence.

That during the course of investigation on dated 21.05.2022 the accused person namely Ravi Gupta S/o Giri Raj Gupta Rio A-15, Meera Bagh, New Delhi was arrested and release on police bail.

That on dated **23.05.2022** post mortem of the deceased was got conducted at Sanjay Gandhi Hospital, Mangolpuri, Delhi vide PM No. 494/22, PM report was obtained wherein the doctor has opined **"Death is due to shock as a result of antemortem electrocution."**

That on dated 02.06.2022 Sh. Suresh Kumar Bukka, Assistant Electrical Inspector, 5 Shamnath marg, Delhi conducted inspection of the electrical circuit board. Inspection report of the same was obtained wherein it has been opined that:-

"The water cooler with which the said accident reportedly occurred was produced for inspection at Kh. No. 76/24, Swarn Park, Village Mundka, Nangloi, Delhi by Sh Mukesh Kumar, Assistant Sub-Inspector, Police Station- Nagnloi. Further, it was reported by Sh. Mukesh Kumar, Assistant Sub-Inspector that Sh. Bijender Paswan, Sia Sh. Tarkeshwar Paswan was happened to come in contact with the said water cooler and got electrocuted. During course of inspection, it was observed that the said water cooler was an electric operated water cooler (Specifications 230 V, 50 Hz, Single Phase, Capacity-40 l/h, Storage-80 I, Sr. No. Nil, Make- Valtas Limited). The casing/body of the said water cooler was found to be a metallic casing. A white colour three core electric supply cable of length about 0.8 mtrs consisting of Black, Red and Green wires was found connected at one end to the said water cooler. The Green colour wire was not found connected further for earthing purpose, the other ends of these



Black and Red colour wires were further found connected (joint) to a Black colour two core cable of length about 2. 0 mtrs consisting of Black and White wires. The other ends of these Black and White wires were found free and not connected to a plug top, thereby making their conductors exposed. The insulation resistance of the electrical installation of the said water cooler was tested with 500 V Insulation Tester (Meggar) and at the time of inspection leakage of current was observed. Further, the said water cooler was energised and also tested with a Neon lamp electric tester, the leakage of current was observed. Further, at the time of inspection no external earth wire was found connected to the metallic casing of the said water cooler for the purpose of earthing.

1. The insulation resistance of the electrical installation of the said water cooler was found to be so low as to prevent safe use of energy in contravention of the provisions of Regulation 33(i) of the said Regulations in the following respect.

(a) The insulation resistance of the electrical installation of the said water the said water cooler had cooler was found less than 1 Mega Ohm.

2 The metallic casing of not been found connected with earth in contravention of the provisions of Regulation 41 of the said Regulations.

3. The electrical installation of said water cooler had not been found installed and maintained in such a manner as to ensure safety of human beings & animals in contravention of the provisions of Regulation 12(l) of the said Regulations.”

That after completion of the investigation the challan was prepared and the same was put up before the court. The case is pending trail at the stage of Charge in the Hon'ble court of Sh. Shubham Devadiya Ld. MM Tis Hazari Court, Delhi, NDOH for the same is **24.05.2024**

In view of the above facts and circumstances, the Status Report may be submitted please accordingly. However, the undersigned is ready and willing to follow any direction/order passed by this Hon'ble court in the interest of justice.”

3. Learned counsel for the petitioner has submitted that the latter was the employer of the deceased and was present at the spot when the incident in the present case had occurred. It is further submitted that the said incident



was accidental in nature and the petitioner along with other factory workers had taken the deceased to hospital for his treatment after the incident.

4. It is further submitted that the petitioner is a law-abiding citizen with clean antecedents and with the intervention of the elders and well-wishers, the matter has been amicably settled between the petitioner and respondent Nos. 3 and 4 vide Settlement Deed dated 08.10.2023 (Annexure B). It is further pointed out that the claim filed by the respondent Nos. 3 and 4 before the Authority under Employees Compensation Act against the present petitioner has been withdrawn on 19.10.2023 in lieu of the said settlement.

5. *Per contra*, learned APP for the State has submitted that the offences alleged against the present petitioner are serious in nature. He has further submitted that the accident in the present case had occurred on account of the negligence of the petitioner in getting the repair of the water cooler and due to lack of proper precautionary measures.

6. Heard the learned counsel for the parties and perused the record.

7. It is settled principle of law that in cases of non-compoundable offences where the parties have arrived at a settlement, the High Court has inherent power to quash a criminal proceeding in exercise of powers under Section 482 of the CrPC as well as Article 226 of the Constitution of India. Time and again, it has been reiterated that the inherent powers of the High Court are of a wide plenitude, but in exercise of such powers, the guiding factor has to be – (i) to secure the ends of justice, or (ii) to prevent the abuse of process of any Court. It is also well settled that before proceeding to quash an FIR, the High Court must duly consider the nature and gravity of an offence.

8. This Court is of the considered opinion that there is no bar to quash an



FIR under Section 304A of the IPC in exercise of inherent powers under Section 482 of the CrPC. However, such powers have to be exercised sparingly and with caution. In **State of Madhya Pradesh v. Laxmi Narayan and Ors., (2019) 5 SCC 688**, it has been held as under:

“15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

15.2. Such power is not to be exercised in those prosecutions which involved 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;

15.5. While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc.”

9. This Court while dealing with a petition seeking quashing of an FIR under Section 304A of the IPC, in **Sunil Malhotra & Anr. v. The State NCT of Delhi & Anr., 2023:DHC:8374**, observed and noted as under,

"12. Section 304A of the IPC finds mention in Chapter XVI of the IPC under the heading '*of offences affecting the human body*'. The provision provides for a situation where death of a person has been caused by an act that is 'rash' or 'negligent'. It is in the nature of an exception to 'culpable homicide' as defined in Section 299 of the IPC. Therefore, the issue is what constitutes culpable rashness or negligence?

12.1. Culpable rashness is doing or omitting to do something, with the knowledge or consciousness that such wanton act or omission can lead to illegal consequences. Culpability, in a case of rashness, lies in acting



with consciousness and doing so with indifference as to the consequences of such act.

12.2. Culpable negligence, on the other hand, constitutes a breach of duty to do something which an ordinary reasonable man, in those circumstances would have done. Criminality in case of negligence arises when there is no consciousness as to the consequences which may follow but circumstances are such that shows it was incumbent upon the actor to take certain precautions. It is further settled law that for a negligent act to give rise to a criminal liability, the negligence ought to be ‘gross’, which is a standard to be decided on the basis of facts and circumstances of each case.

12.3. In **Rathnashalvan v. State of Karnataka, (2007) 3 SCC 474**, the Hon’ble Supreme Court held as under:

“7. Section 304-A applies to cases where there is no intention to cause death and no knowledge that the act done in all probability will cause death. The provision is directed at offences outside the range of Sections 299 and 300 IPC. The provision applies only to such acts which are rash and negligent and are directly cause of death of another person. Negligence and rashness are essential elements under Section 304-A. Culpable negligence lies in the failure to exercise reasonable and proper care and the extent of its reasonableness will always depend upon the circumstances of each case. Rashness means doing an act with the consciousness of a risk that evil consequences will follow but with the hope that it will not. Negligence is a breach of duty imposed by law. In criminal cases, the amount and degree of negligence are determining factors. A question whether the accused’s conduct amounted to culpable rashness or negligence depends directly on the question as to what is the amount of care and circumspection which a prudent and reasonable man would consider it to be sufficient considering all the circumstances of the case. Criminal rashness means hazarding a dangerous or wanton act with the knowledge that it is dangerous or wanton and the further knowledge that it may cause injury but done without any intention to cause injury or knowledge that it would probably be caused.

8. As noted above, “rashness” consists in hazarding a dangerous



or wanton act with the knowledge that it is so, and that it may cause injury. The criminality lies in such a case in running the risk of doing such an act with recklessness or indifference as to the consequences. Criminal negligence on the other hand, is the gross and culpable neglect or failure to exercise that reasonable and proper care and precaution to guard against injury either to the public generally or to an individual in particular, which, having regard to all the circumstances out of which the charge has arisen it was the imperative duty of the accused person to have adopted.”

12.4. In Syed Akbar v. State of Karnataka, (1980) 1 SCC 30, the Hon’ble Supreme Court held as under:

“28. In our opinion, for reasons that follow, the first line of approach which tends to give the maxim a larger effect than that of a merely permissive inference, by laying down that the application of the maxim shifts or casts, even in the first instance, the burden on the defendant who in order to exculpate himself must rebut the presumption of negligence against him, cannot, as such, be invoked in the trial of criminal cases where the accused stands charged for causing injury or death by negligent or rash act. The primary reasons for non-application of this abstract doctrine of *res ipsa loquitur* to criminal trials are: Firstly, in a criminal trial, the burden of proving everything essential to the establishment of the charge against the accused always rests on the prosecution, as every man is presumed to be innocent until the contrary is proved, and criminality is never to be presumed subject to statutory exception. No such statutory exception has been made by requiring the drawing of a mandatory presumption of negligence against the accused where the accident “tells its own story” of negligence of somebody. Secondly, there is a marked difference as to the effect of evidence viz. the proof, in civil and criminal proceedings. In civil proceedings, a mere preponderance of probability is sufficient, and the defendant is not necessarily entitled to the benefit of every reasonable doubt; but in criminal proceedings, the persuasion of guilt must amount to such a moral certainty as convinces the mind of the Court, as a reasonable man beyond all reasonable doubt. Where negligence is an essential ingredient of the offence, the negligence to be established by the prosecution must be culpable or gross and not the negligence merely based



upon an error of judgment. As pointed out by Lord Atkin in *Andrews v. Director of Public Prosecutions* [(1937) 2 All ER 552 : 1937 AC 576] , “simple lack of care such as will constitute civil liability, is not enough”; for liability under the criminal law “a very high degree of negligence is required to be proved. Probably, of all the epithets that can be applied ‘reckless’ most nearly covers the case”.

29. However, shorn of its doctrinaire features, understood in the broad, general sense, as by the other line of decisions, only as a convenient ratiocinative aid in assessment of evidence, in drawing permissive inferences under Section 114 of the Evidence Act, from the circumstances of the particular case, including the constituent circumstances of the accident, established in evidence, with a view to come to a conclusion at the time of judgment, whether or not, in favour of the alleged negligence (among other ingredients of the offence with which the accused stands charged), such a high degree of probability, as distinguished from a mere possibility has been established which will convince reasonable men with regard to the existence of that fact beyond reasonable doubt. Such harnessed, functional use of the maxim will not conflict with the provisions and the principles of the Evidence Act relating to the burden of proof and other cognate matters peculiar to criminal jurisprudence.

30. Such simplified and pragmatic application of the notion of *res ipsa loquitur*, as a part of the general mode of inferring a fact in issue from another circumstantial fact, is subject to all the principles, the satisfaction of which is essential before an accused can be convicted on the basis of circumstantial evidence alone. These are: Firstly, all the circumstances, including the objective circumstances constituting the accident, from which the inference of guilt is to be drawn, must be firmly established. Secondly, those circumstances must be of a determinative tendency pointing unerringly towards the guilt of the accused. Thirdly, the circumstances shown make a chain so complete that they cannot reasonably raise any other hypothesis save that of the accused’s guilt. That is to say, they should be incompatible with his innocence, and inferentially exclude all reasonable doubt about his guilt.”



10. In view of above, to bring the present case within the definition of ‘gross negligence’ there must be wanton disregard to the consequences of an act or omission on part of the petitioner which resulted in the accident. A perusal of the chargesheet reflects that the petitioner has been arrayed as an accused in the present case on the basis of the inspection report submitted by the Electrical Inspector and the statement of respondent No. 2/complainant. The facts of the present case reveal that the incident in the present case was purely accidental in nature. Perusal of the statement of respondent No. 2/complainant, based on which present FIR was registered, shows that he along with another factory worker, Lal Bahadur, and the present petitioner had taken the deceased to the hospital. Respondent No. 2 is present through VC and states that he has given an affidavit of no objection with regard to quashing of the present FIR.

11. Be that as it may, respondent Nos. 3 and 4 (mother and brother of the deceased respectively) have entered into a settlement with the petitioner *vide* a settlement deed/Memo of Understanding (MoU) dated 08.10.2023 (Annexure B). In pursuance of the said settlement, the petitioner has agreed to pay a sum of Rs. 7,00,000/- as compensation to respondent Nos. 3 and 4 as full and final settlement. However, the petitioner has agreed to enhance the amount to Rs. 8,50,000/-.

12. As per the said settlement, a sum of Rs. 5,50,000/- have already been paid to the respondent Nos. 3 and 4 and remaining amount of Rs. 1,50,000/- has been paid to them in Court today, by way of a demand draft.

13. Demand drafts bearing Nos. 063808 and No. 063856 both for a sum of Rs. 1,50,000/-dated 15.01.2025 and 20.01.2025, respectively, drawn on



Axis Bank, Janakpuri, New Delhi have been handed over to the respondent No. 4 who acknowledges the receipt of the same.

14. Petitioner, respondent Nos. 3 and 4 are present before this Court and complainant/respondent No. 2 appears through VC and have been duly identified by the Investigating Officer, SI Sunder Singh, P.S. Nangloi, Delhi.

15. In view of the aforesaid circumstances, and the fact that the parties have put a quietus to the unfortunate episode, no useful purpose will be served in continuing with the present FIR No. 390/2022, under Sections 287/304A of the IPC at PS Nangloi, Delhi and all other consequential proceedings emanating therefrom including the chargesheet pending in the Court of Ms. Akanksha Bansal, learned Metropolitan Magistrate, Tis Hazari Courts, Delhi.

16. In totality of facts and circumstance of the case and in the interests of justice, FIR No. 390/2022 under Sections 279/304A IPC at PS Nangloi, Delhi and all other consequential proceedings emanating therefrom including the chargesheet pending in the Court of Ms. Akanksha Bansal, learned Metropolitan Magistrate, Tis Hazari Courts, Delhi, are hereby quashed.

17. The present petition is allowed and disposed of accordingly.

18. Pending application(s), if any, also stand disposed of.

19. Copy of the order be sent to the concerned learned Trial Court for necessary information and compliance.

20. Order be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J

JANUARY 30, 2025

[Click here to check corrigendum, if any](#)