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

+ **CRL.M.C. 6257/2025, CRL.M.A. 26452-26453/2025**

SAMARTH MALIK

.....Petitioner

Through: Mr. Kanwal Chaudhary, Mr. Gaurav
Sharma, Ms. Anusha, Advocates with
Petitioner in person

versus

GOVT. OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Hemant Mehla, APP for the State
with SI Jasbir Malik, PS Delhi Cantt.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

04.09.2025

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1. The present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (corresponding to Section 482 of the Code of Criminal Procedure, 1973²) seeks quashing of FIR No. 75/2023³ registered under Sections 279/304A of the Indian Penal Code, 1860⁴ at P.S. Delhi Cantt and all consequential proceedings emanating therefrom.

2. Briefly, the case of the prosecution against the Petitioner is that on 26th February, 2023 while crossing the road near Arjan Vihar, the minor daughter of the Complainant/Respondent No. 2 was hit by a white car bearing registration no. DL2CAX0283, allegedly driven in a rash and

¹ "BNSS"

² "CrPC"

³ "impugned FIR"

⁴ "IPC"



negligent manner by the Petitioner. The child was taken to various hospitals and was declared dead at RML Hospital. On the basis of the Complainant's statement, impugned FIR was registered under Sections 279/304A of IPC. Consequently, after investigation, the Petitioner was charge-sheeted under Sections 279/304A.

3. The parties state that they have amicably resolved the dispute arising from the impugned FIR, with the Petitioner agreeing to pay Respondent No. 2 a total sum of INR 8,00,000/- as full and final settlement. Respondent No. 2 has agreed to not object to the quashing of the impugned FIR. An Affidavit to this effect, is on record.

4. In view of the settlement, Respondent No. 2, who has appeared before the Court and is identified by the Investigating Officer, has unequivocally stated that she does not wish to pursue the impugned FIR proceedings. She has confirmed that her decision to settle the matter is voluntary and made without any undue influence or coercion. She further confirms the receipt of the total settlement amount, i.e., INR 8,00,000/- from the Insurance Company. Copy of DD has been placed on record. Additionally, she acknowledges having received a sum of INR 5,00,000/- from the Petitioner in MACT Case No. 410/2023. In light of the amicable resolution between the parties, the Petitioner seeks quashing of the impugned FIR and all proceedings arising therefrom.

5. The Court has considered the submissions of the parties. Notably, the offences under Section 279/304A of IPC are non-compoundable. At the same time, it is well settled that in the exercise of its inherent powers under Section 482 CrPC (now Section 528 BNSS), the Court may, in appropriate cases, quash proceedings in respect of non-compoundable offences if the



parties have reached a genuine settlement and no overarching public interest is adversely affected. The Supreme Court in ***Gian Singh v. State of Punjab & Anr.***⁵ has held as follows:

“11. As discussed above, offence punishable under Section 186/332/353 of the IPC are non-compoundable being of serious nature, however, if the Court feels that continuation of criminal proceedings will be an exercise in futility and justice in this case demands that the dispute between the parties is put to an end and peace is restored, it can order for quashing of the FIR or criminal proceedings as it is the duty of the Court to prevent continuation of unnecessary judicial process.

12. In view of the law discussed above, considering the Settlement arrived at between the parties and the statements of respondent no.1 & 2, I am of the considered opinion that this matter deserves to be given a quietus as continuance of proceedings arising out of the FIR in question would be an an exercise in futility.”

[Emphasis added]

6. Further, in ***Narinder Singh & Ors. v. State of Punjab & Anr.***,⁶ the Supreme Court held as follows:

“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.

⁵ (2012) 10 SCC 303

⁶ (2014) 6 SCC 466



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]

7. The Court is conscious that the alleged offence pertains to a heinous crime under Section 304A of IPC where the victim died due to alleged negligence of the Petitioner. Therefore, in determining whether the proceedings can be quashed on the basis of the settlement between the Petitioner and the deceased's family, it is necessary to consider whether the material on record could reasonably indicate the presence of gross negligence and an element of *mens rea*, which are essential for securing a conviction.

8. In ***Jacob Mathew v. State of Punjab***⁷, the Supreme Court examined what constitutes a negligent act under Section 304A of IPC and held that gross negligence, along with an element of *mens rea*, must be established. The relevant observations of the Court are as follows:

⁷ (2005) 6 SCC 1.



"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"..."

9. In the present case, the Complainant, who is the sole eyewitness to the alleged incident states that the accident was not caused by any negligence on the part of the Petitioner. This assertion has been stated on oath in her affidavit. Additionally, she has categorically expressed that she does not wish to pursue the proceedings under the impugned FIR. Given these circumstances, the element of *mens rea*, as highlighted earlier, is substantially weakened, making it futile to continue the proceedings under the impugned FIR against the Petitioner. The Court, accordingly, is of the view that this is a fit case for the exercise of jurisdiction under Section 482 of Cr.P.C. to secure the ends of justice.

10. In view of the foregoing, the present petition is allowed and the impugned FIR No. 75/2025 as well as all consequential proceedings arising therefrom are hereby quashed.

11. However, given that the state machinery was put to use, the ends of justice will be served if the Petitioner is put to certain cost. Accordingly, the Petitioner is directed to deposit a sum of INR 10,000/- with the Delhi Police



Welfare Fund within a period of four weeks from today. Proof of payment to be furnished to the concerned SHO.

12. The parties shall remain bound by the terms of settlement.

13. Accordingly, the petition is disposed of along with pending application(s).

SANJEEV NARULA, J

SEPTEMBER 4, 2025/ab