



\$~76

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

+ **CRL.M.C. 7832/2024**

AKHILESH KUMAR

.....Petitioner

Through: Mr. Vikas Sharma, Mr. Pradeep
Kumar Nirvan, Mr. Surya Singh, Mr.
Deepak Aggarwal, Mr. Deekshant
Kumar and Ms. Jyoti Sharma, Advs.

versus

**STATE GOVT OF NCT OF DELHI
THROUGH SHO & ORS.**

.....Respondents

Through: Mr. Utkarsh, APP for State with SI
Raghuraj, PS. Sangam Vihar.
Mr. Siddhant Sharma, *Amicus Curiae*.

**CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN**

**ORDER
22.01.2025**

%

1. The present petition has been filed under Section 528 BNSS, 2023 seeking quashing of FIR No.654/2021 under Sections 304A/288/338 IPC registered at Police Station Sangam Vihar and all consequential proceedings emanating therefrom on the ground that the parties have arrived at a settlement.

2. Issue notice. The learned APP for the State accepts notice. He submits that since the FIR is an outcome of an accident and the parties have arrived at a settlement, the State has no objection in case the FIR in question is quashed.



3. The petitioner is present in the Court and he has been identified by his counsel, as well as, by the Investigating Officer SI Raghuraj, PS. Sangam Vihar.
4. The respondent nos.2 and 3, who were present in the Court on the last date i.e., 26.11.2024, were identified by the I.O. They had affirmed the factum of settlement.
5. The case of the prosecution is that the petitioner was a sub-contractor with regard to the work awarded for laying underground cable. He had engaged respondent no.2, as well as, the deceased for digging earth. The respondent no.2 was undertaking the excavation work and was taking out soil from the pit when accidentally, the soil which he had taken out from the pit fell on him and he got buried till his waist. The deceased came to assist him and the mud under his feet slipped causing him to fall over the respondent no.2. The deceased got hurt by the stones lying there and fell unconscious. Thereafter, he was taken to Mahendra Hospital by their Supervisor where he passed away. This led to the registration of present FIR.
6. During pendency of the proceedings, the petitioner had arrived at separate settlements with the respondent no.2, as well as, the respondent no.3, who is the wife of the deceased, terms whereof were reduced in writing in the form of two separate Memorandum of Understandings dated 19.09.2024, which is annexed as Annexure P-2 to the present petition.
7. In terms of the settlement with the respondent no.2, the petitioner has paid an amount of Rs. 25,000/- whereas in terms of the settlement with the respondent no.3, the petitioner has agreed to pay a sum of Rs. 3.50 lacs as compensation.



8. The learned counsel for the petitioner submits that the entire amount has been paid to the respondent nos. 2 and 3 in the manner as mentioned in their respective settlements.

9. Mr. Siddhant Sharma, Advocate who was appointed as *Amicus Curiae* by this Court to represent the respondent nos. 2 and 3, on instructions from the said respondents, affirms the factum of the settlement and states that the settlement amount has already been paid to the respondent nos. 2 and 3 and they are satisfied with the amount of compensation. He submits that the respondents are residents of Bihar and are not interested in prosecuting the case.

10. The learned counsel for the petitioner submits that apart from the compensation amount, the petitioner has got the respondent no.3 registered with the ESIC and she is also getting pension @ Rs. 9,000/- per month approximately.

11. At this stage, apt would it be to refer to the observations of the Supreme Court in ***Gian Singh v. State of Punjab, (2012) 10 SCC 303: (SCC p. 340, para 58)***

“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.”

12. In view of the settlement between the parties, the ultimate chances of conviction in the case are bleak, therefore, continuation of criminal proceedings will not serve any useful purpose and it will be an exercise in



futility.

13. It is, thus, in the interest of justice that the present FIR and all the other proceedings emanating therefrom be quashed.

14. Consequently, the petition is allowed and the FIR No.654/2021 under Sections 304A/288/338 IPC registered at Police Station Sangam Vihar alongwith all other proceedings emanating therefrom, is quashed.

15. The petition stands disposed of in the above terms.

16. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

JANUARY 22, 2025/dss