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

+ **CRL.M.C. 4157/2025**

SHREE DIGAMBAR JAIN MANDIR AND ORSPetitioners

Through: **Mr. Rajbir Singh Sagar, Advocate.**

versus

STATE OF NCT OF DELHI AND ANRRespondents

Through: **Mr. Yudhvir Singh Chauhan, APP
with Mr. Sunil Arya, Advocate and
SI Harish Choudhary, P.S. Gandhi
Nagar.**

R2 and R3 in person.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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26.02.2026

1. The petitioners have approached this Court for quashing of FIR No. 386/2024 dated 26.07.2024, registered under Section 106(1) of the Bharatiya Nyaya Sanhita, 2023 ["BNS"], at Police Station Gandhi Nagar, District Shahdara, New Delhi, on the ground of settlement.
2. The impugned FIR pertains to the demise of one Kunal Jain at Shree Digambar Jain Mandir, Gali No. 2, Kailash Nagar, New Delhi ["the Temple"], on 26.07.2024.
3. The FIR was registered upon receipt of information that the parapet of the Temple had collapsed, resulting in injuries to two or three persons. The deceased and his family were devotees of the Temple, and were present at the site to offer prayers when the unfortunate incident occurred.



The deceased was taken to Goyal Nursing Home, New Delhi, where he was declared brought dead.

4. Upon completion of investigation, a chargesheet was filed, but no charges have been framed.

5. The present petition for quashing has been filed on the basis of a Memorandum of Understanding dated 08.05.2025, between the representatives of the Temple [petitioners herein] and the parents of the deceased [respondent Nos. 2 and 3 herein].

6. The parents of the deceased neither registered an FIR, nor want any monetary settlement for the criminal proceedings to be quashed. Nonetheless, I am informed that the Temple Committee has paid an *ex gratia* sum of Rs. 5,00,000/- to the parents of the deceased, who are present in Court, and acknowledge having received the said amount.

7. Although the offence under Section 106(1) of the BNS is non-compoundable, the Supreme Court has clearly held that, in certain circumstances, the High Courts, in exercise of their powers under Section 482 of CrPC [corresponding to Section 528 of BNSS], can quash criminal proceedings, even with respect to non-compoundable offences, on the ground that there is a compromise between the accused and the complainant, especially when no overarching public interest is adversely affected.

8. The Supreme Court, in *Gian Singh v. State of Punjab and Anr.*¹, held as follows:

“58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim

¹ (2012) 10 SCC 303.



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. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, **where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated.** The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.”²

Further, in *Narinder Singh and Ors. v. State of Punjab and Anr.*³, the Supreme Court has also laid down guidelines for High Courts while accepting settlement deeds between parties and quashing the proceedings. The relevant observations in the said decision read as under:

“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

² Emphasis supplied.

³ (2014) 6 SCC 466.



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.

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.”⁴

9. The fact that Section 106(1) of the BNS (corresponding to Section 304A of the Indian Penal Code, 1860 [“IPC”]) is non-compoundable does not, therefore, constitute an absolute bar to quashing. Several decisions of this Court have examined the circumstances in which such a course can

⁴ Emphasis supplied.



be adopted in cases involving offences under the said section. In *Babu Khan and Anr. v. State and Ors.*⁵, this Court adverted to the aforesaid judgments of the Supreme Court and observed as follows:

“20. In Jacob Mathew v. State of Punjab, (2005) 6 SCC 1, the Supreme Court had explained that for a negligent act to constitute an offence, under Section 304A of the IPC, the same should be gross negligence and an element of mens rea must be shown to exist. The Court had further explained that the degree of negligence which is punishable under Section 304A of the IPC should be of a high degree. The Court had observed as under:—

“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.

(6) The word ‘gross’ has not been used in Section 304A of 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’...”

21. Thus, while evaluating whether a proceeding relating to an alleged offence, under Section 304A of the IPC, be quashed on the basis of a settlement between the accused and the victim, it would also be necessary to consider whether it is probable that the facts presented would constitute gross negligence and an element of mens rea, which is likely to secure a conviction.”

The Court specifically rejected the submission that an earlier judgment in *Bhajan Lal Sharma v. State (Govt. of NCT of Delhi)*⁶ prohibits such a course⁷.

⁵ 2019 SCC OnLine Del 10007 [hereinafter, “*Babu Khan*”].

⁶ 2019 SCC OnLine Del 4234.

⁷ *Babu Khan*, paragraph 8.



10. A coordinate Bench of this Court, in *Sunil Malhotra v. State (NCT of Delhi)*⁸, undertook an analysis of several decisions of this Court on the same issue, and held that proceedings arising from an offence under Section 304A of the IPC are amenable to quashing, including where a settlement has been arrived at with the legal heirs of the deceased. The Court reaffirmed the settled position that criminal liability for negligence under Section 304A of the IPC is attracted only when the negligence is gross, which must be assessed in light of the facts and circumstances of each case.

11. In the present case, in light of the categorical stand of the parents of the deceased that they do not allege any fault or seek prosecution, the likelihood of the prosecution successfully establishing criminal negligence beyond a reasonable doubt appears remote. It may also be noted that the deceased and his family were devotees of the Temple, and the unfortunate incident occurred when they were present at the site to offer prayers.

12. Applying the tests laid down by the Supreme Court, the material on record *prima facie* supports the case of the parties that the occurrence was purely accidental in nature, rather than the result of any intentional or grossly negligent act. The parents of the deceased have further affirmed before this Court that the settlement has been arrived at voluntarily, without coercion or undue influence. In such circumstances, continuation of the proceedings would not serve the cause of justice.

13. Having regard to the above discussion, the petition is allowed, and FIR No. 386/2024 dated 26.07.2024, registered under Section 106(1) of

⁸ 2023 SCC OnLine Del 7365.



the BNS, at Police Station Gandhi Nagar, District Shahdara, New Delhi, alongwith all consequential proceedings emanating therefrom, is hereby quashed.

14. The petition stands disposed of.

PRATEEK JALAN, J

FEBRUARY 26, 2026

Sh/KA/