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

+ **CRL.M.C. 4438/2025**

TARUN KUMAR

.....Petitioner

Through: **Ms. Meesa Kaura Patil, Advocate.**

versus

THE STATE NCT OF DELHI & ANR.

.....Respondent

Through: **Mr. Hitesh Vali, APP. SI Lokesh Kumar, PS-Govind Puri.**

Mr. Rakesh Kr. Saini, Advocate for complainant.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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08.04.2026

1. The petitioner has approached this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ["BNSS"] (corresponding to Section 482 of the Code of Criminal Procedure, 1973 ["CrPC"]), seeking quashing of FIR No. 440/2017, dated 02.11.2017, registered under Sections 288/337 of the Indian Penal Code, 1860 ["IPC"] at Police Station Govind Puri, Delhi, and proceedings emanating therefrom, on the ground of settlement.

2. The prosecution has placed on record a status report from which the case is summarised as follows:

A. On 02.11.2017, a PCR call was received that, one Ritesh Kumar had fallen from the roof of the property [bearing No. RZ-58-C/2, Gali No. 8, Tuglakabad Extension, New Delh], on 02.11.2017. He



was taken to Majida Hoptal, Hamdard Nagar, Delhi, and then referred to AIIMS Trauma Centre.

- B. After preliminary inquiry, FIR No. 440/2017 at Police Station Govind Puri was registered under Sections 288/337 of the IPC.
- C. During investigation, it was found that Ritesh Kumar was working as a labour on the roof of the abovementioned property, from where he slipped and fell on the fourth floor of the adjacent building.
- D. The petitioner, being the builder of the property was arrested, and released on bail.
- E. Ritesh Kumar was discharged from AIIMS Trauma Centre on 09.01.2018, after which the family members of Ritesh Kumar took him to their native place in Bihar, where he eventually succumbed to his injuries on 14.01.2018.
- F. After completion of investigation, chargesheet was filed, and Section 304A of IPC was added.

3. I am informed that although the FIR was registered in the year 2017, the Trial Court proceedings has not started yet.

4. The present petition has now been filed seeking quashing of the impugned FIR on the basis of Settlement Deed dated 06.06.2025, between the petitioner and the father of the deceased, stating that the death occurred due to an accident and not due to omission and negligence on the part of the petitioner. The father of the deceased has signified no objection to the relief sought by the petitioner.

5. During the course of the proceedings, it was noted *vide* order dated 29.01.2026 that the deceased is survived by his mother, who is neither



party to the settlement nor to this petition.

6. Pursuant thereto, both parents of the deceased are present in Court and have been identified by the Investigating Officer. At my request, Mr. Sarthak Karol, learned Standing Counsel for the Delhi High Court Legal Services Committee, was requested to assist the family of the deceased. Today, the family of the deceased is also represented by Mr. Rakesh Kr. Saini, learned counsel, who submits that the family does not wish to participate in any criminal proceedings and have no grievance against the petitioners.

7. Learned counsel for the parties thus seek quashing of the impugned FIR and consequential proceedings emanating therefrom.

8. The Supreme Court has clearly held that even in the case of non-compoundable offences, the Court may take into account all the facts and circumstances and quash the proceedings in appropriate cases on the ground of a compromise.

9. The Supreme Court, in *Gian Singh v. State of Punjab & Anr.*¹ has 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 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

¹ (2012) 10 SCC 303.



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 & Ors. v. State of Punjab & 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 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.

² Emphasis supplied.

³ (2014) 6 SCC 466.



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

10. The mere fact that Sections 288/304A IPC are non-compoundable does not create an absolute bar to quashing. As held by the Supreme Court in *State of Madhya Pradesh v. Laxmi Narayan and Others*, [(2019) 5 SCC 688, paragraph 15.5], the High Court must examine the nature of the offence, the role attributed to the accused, the material collected during investigation, and whether the offence is one which has such a

⁴ Emphasis supplied.



grave societal impact that it transcends the personal domain of the parties. The Supreme Court has cautioned that courts must not adopt a mechanical approach merely because a particular penal section is invoked; the substance of the allegations and evidentiary material must be assessed.

11. This Court has, in a catena of decisions, also delineated the circumstances in which such power may be invoked even in cases arising under Section 304A of IPC. In *Babu Khan and Anr. v. State and Ors.*, this Court 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.”



12. The Court specifically rejected the submission that, an earlier judgment in *Bhajan Lal Sharma v. State (Govt. of NCT of Delhi)*⁵ operates as a bar to the adoption of such a course⁶.

13. A coordinate Bench of this Court, in *Sunil Malhotra v. State (NCT of Delhi)*⁷, undertook a comprehensive examination of precedents on the said issue and concluded that proceedings arising out of an offence under Section 304A IPC are amenable to quashing, including in cases where a settlement has been entered into with the legal heirs of the deceased. The Court reiterated the well-settled principle that criminal liability for negligence under Section 304A IPC is attracted only where the negligence is of a gross nature, to be determined on an assessment of the facts and circumstances of each case.

14. Applying the principles enunciated above, the material placed on record *prima facie* indicates that the incident was accidental in nature and arose in the course of work being undertaken at the site, and cannot be attributed to any intentional or grossly negligent act on the part of the petitioner. No material has been brought to the notice of this Court which would, *prima facie*, disclose such a degree of rashness or negligence as would satisfy the threshold of “gross negligence” so as to necessitate continuation of criminal proceedings under Section 304A IPC, despite settlement. Furthermore, the FIR/chargesheet does not indicate any specific overt act, deliberate omission, or conscious negligence to the petitioner. There is no material suggesting prior complaints, knowledge

⁵ 2019 SCC OnLine Del 4234.

⁶ *Babu Khan*, paragraph 8.

⁷ 2023 SCC OnLine Del 7365.



of imminent danger, or wilful disregard of safety obligations. The prosecution case rests essentially on an inference of negligence arising out of the occurrence itself. The facts thus do not make out an act of gross negligence attributable to the petitioner.

15. The Court must also consider whether the possibility of conviction is remote. In the present case, in the absence of material demonstrating specific negligence attributable to the petitioner, and in light of the categorical stand of the legal heirs of the deceased that they do not allege fault or seek prosecution, the likelihood of the prosecution successfully establishing criminal negligence beyond reasonable doubt appears bleak. Furthermore, learned counsel for the parties have also confirmed before the Court that the settlement was arrived at voluntarily. Continuation of proceedings in such circumstances would not advance the cause of justice.

16. The settlement originally contemplated a payment of Rs. 5,00,000/- to respondent No. 2. Ms. Meesa Kaura Patil, learned counsel for the petitioner, states that the petitioner voluntarily undertakes to pay additional compensation of Rs. 5,00,000/- to the family of the deceased. Out of the new settlement amount of Rs.10,00,000/-, Rs.6,70,000/- has already been paid, which is confirmed by the family of the deceased. The balance amount of Rs. 3,40,000/- has been paid today in Court, in the name of the mother of the deceased.

17. Having regard to all the aforesaid facts and circumstances, I am of the view that it is appropriate to quash the impugned FIR. Therefore, FIR No. 440/2017, dated 02.11.2017, registered under Sections 288/304A of the IPC at Police Station Govind Puri, Delhi, is quashed.



18. The parties shall remain bound by the terms of the settlement.
19. The petition is disposed of with these directions.

APRIL 8, 2026
'Bhupi'/AD/

PRATEEK JALAN, J