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

\# **CNR No. DLHC010639672024**

\+ W.P.(CRL) 2941/2024

MOHD ALI .....Petitioner

Through: Advocate *(appearance not given).*
Petitioner-in-person.

versus

THE STATE GOVT OF NCT OF DELHI AND ANR .....Respondents

Through: Mr. Rahul Tyagi, ASC (Criminal) for State with Ms. Priya Rai, Mr. Aniket Kumar Singh, Mr. Pradyumn Singh, Mr. Aakash and Mr. Priyansh Raj Singh, Advocates.
Mr. Rakesh Singh, SI, P.S. Kalindi Kunj.
R-2 in person.

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

O R D E R

% 29.10.2026

1. The present petition has been filed under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') seeking quashing of FIR No.676/2024 dated 4th November, 2023, registered at P.S. Kalandi Kunj under Sections 288/304A of Indian Penal Code, 1860 and all proceedings arising therefrom, on the ground of settlement.

2. Issue notice.

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3. Notice is accepted by the APP appearing on behalf of the State and by the respondent no.2, who appears in person.

4. The present FIR has been registered pursuant to the death of the husband of the respondent no.2 on account of falling from the second floor during construction work in the petitioner's property.

5. The parties have settled their disputes in terms of the MoU dated 4th November, 2023, which has been placed on record as Annexure B to the petition. In terms of the settlement, the petitioner has agreed to pay a sum of Rs.5,00,000/- to the respondent no.2. A demand draft of Rs.5,00,000/- has been handed over by the petitioner to the respondent no.2 in Court today.

6. The respondent no.2 is present in Court and has been identified by the Investigating Officer ('IO'). She informs the Court that she has settled the matter of her own free will and without any coercion. She further states that she has no objection to quashing of the present FIR.

7. The petitioner is also present in Court and has been identified by his counsel. He affirms the statement of the respondent no.2 and undertakes to abide by the terms of settlement arrived at between the parties.

8. The issue whether an FIR involving offences under Section 304A IPC/106(1) BNS can be quashed on the ground of settlement is no longer *res integra*.

9. A coordinate Bench of this Court in ***Sunil Malhotra v. State (NCT of Delhi)***[1], after considering various judicial precedents governing the quashing of proceedings under Section 304A IPC, held that there is no absolute bar to exercising the inherent jurisdiction of the High Court to quash such

[1] 2023 SCC OnLine Del 7365.

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proceedings, even where the offence is non-compoundable. The Court further observed that criminal liability for negligence under Section 304A IPC is attracted only where the negligence is of a gross nature and it has to be determined in light of the facts and circumstances of each case.

10. In ***Babu Khan and Anr.* v. *State and Ors***[2], a Coordinate Bench of 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 <u>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</u>.*** *"*

[2] 2019 SCC OnLine Del 10007.

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(emphasis supplied)

11. In my opinion, the observations made in the abovesaid cases are squarely applicable to the facts and circumstances of the present case and warrant quashing of the FIR. The deceased, Umesh, fell from a height while undertaking construction work and died as a result thereof. The incident appears to have been accidental in nature and not due to gross negligence of the petitioner.

12. In these circumstances, particularly in view of the voluntary settlement arrived at between the parties, the possibility of the prosecution establishing criminal negligence against the petitioner appears remote.

13. Considering the above settlement between the parties, no useful purpose would be served by continuing with the proceedings of the present FIR and it would an unnecessary burden on the State exchequer. Hence, it would be in the interest of justice to quash the present FIR and the proceedings pursuant thereto.

14. Consequently, the FIR No.676/2024 dated 4th November, 2023, registered at P.S. Kalandi Kunj and the proceedings pursuant thereto are quashed.

15. The petition stands disposed of.

AMIT BANSAL, J

OCTOBER 29, 2026
Vivek/-

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