

(2023) 05 DEL CK 0445

In the Delhi High Court

Case No : Criminal Miscellaneous Case No. 4612 Of 2022, Criminal
Miscellaneous Application No. 18702 Of 2022

Ashish Dev

APPELLANT

Vs

State & Ors.

RESPONDENT

Date of Decision : 12-05-2023

Acts Referred:

Indian Penal Code, 1860 — Section 288, 304A
Code Of Criminal Procedure, 1973 — Section 482

Citation : (2023) 05 DEL CK 0445

Hon'ble Judges : Dinesh Kumar Sharma, J

Bench : Single Bench

Advocate : Ripin Sood, Priya Soni, Amit Sahni

Final Decision : Disposed Of

Judgement

Dinesh Kumar Sharma, J

1. The present petition has been filed seeking to quash the Criminal case bearing no. CC No. 1563/2019 arising out of FIR No. 0262/2016 registered at PS Najafgarh under Section 288/304A IPC. The FIR was lodged alleging therein that the deceased was welding the diesel tank at the accident spot near Delhi Gate Najafgarh where Metro work was going on. It was stated that due to sudden thunderstorm and heavy rains, an accident took place at the site where a Vertical pump installed with its moveable frame, from the past 18 Months, suddenly toppled and fell on the deceased worker namely Sh. Kameshwar Singh. After investigation, the charge sheet was filed before the Learned CMM, Dwarka Court, New Delhi under Section 288/304A IPC.

2. Learned Counsel for the petitioner submits that during the pendency of the proceedings, the parties have reached at a settlement in the year 2021. He submits that since the parties have resolved their claims and spites amicably, it would be in the interest of justice if the present FIR along with all the proceedings emanating therefrom is quashed.

3. The settlement agreement has been placed on record and the terms and conditions of the same reads as follows. :-

"I. That all the parties of Second Part hereto have voluntarily agreed that they shall withdraw, compound

and/or render their consent for the withdrawal/compounding of criminal case being CC no. 1563/19 pending before the Learned Chief Metropolitan Magistrate, (South West) Dwarka Courts in consideration of having received full and final settlement amount which has already been paid to them before the Labour Commissioner on 22/07/2016. The parties of Second Part shall make statements before the court or police authorities in this respect as and when required and would render full assistance so that the case as registered against the first party is compounded/ quashed.

II That none of the Second Party Nos. 1 to 4 is interested in pursuing or prosecuting the said Criminal case or oppose the withdrawal of the criminal case being CC no. 1563/19 in any manner, and all the claims of the Second Party Nos. 1 to 4 stands fully and finally settled in terms of the present Settlement Agreement.

III. That the Second Party No. 1 to 4 also agree and undertake that they shall not file any other legal proceedings against the First Party either by way of Suit, Appeal, Complaint etc. in respect of the unfortunate accident.

IV. The parties have thus decided to file petition for quashing of FIR being FIR NO 0262 registered under sections 288/304-A IPC at police station Najafgarh and also the Criminal Case being CC no. 1563 of 2019 and summoning order dated 25.03.2019 passed by Chief Metropolitan Magistrate (South West) Dwarka Court on the basis of present settlement deed on the afore mentioned terms and conditions who shall render full cooperation so that the same may be quashed."

4. Learned counsel for the petitioner also submits that the legal heirs of the deceased have already been paid a sum of Rs. 7,68,500/- (Rupees Seven Lacs Sixty Eight Thousand Five Hundred Only) in the year 2016 and today in the terms of the settlement following demand drafts have been given to respondent no.4:

1. DD No. 000014 of Rs. 50,000/- (Rupees Fifty Thousand Only) in the name of Shashi Kant Kumar dated 11.05.2023 drawn from Bank of India.

2. DD No. 000013 of Rs. 50,000/- (Rupees Fifty Thousand Only) in the name of Pinki Kumari dated 11.05.2023 drawn from Bank of India.

3. DD No. 000015 of Rs. 70,000/- (Rupees Seventy Thousand Only) in the name of Usha Devi dated 11.05.2023 drawn from Bank of India.

4. DD No. 000011 of Rs. 60,000/- (Rupees Sixty Thousand Only) in the name of Usha Devi dated 10.05.2023 drawn from Bank of India

5. Respondent no. 4 is present in court and IO has identified him. It has been stated that he has been given the power of attorney of respondent no. 2 and 3. Respondent no. 4 states that the parties have entered into the settlement voluntarily, without any fear, force or coercion. He also submits that since he has received the amount in terms of the settlement, he has no objection if the FIR No. 0262/2016 registered at PS Najafgarh under Section 288/304A IPC and all the proceedings emanating therefrom are quashed.

6. The inherent power under Section 482 Cr.P.C. is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guidance engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In the case of *Gian Singh v. State of Punjab* (2012) 10 SCC 303, the Supreme Court has observed that in the exercise of its inherent power under Section 482, the High Court can quash FIR/Charge-sheet on the basis of alleged settlement except in cases of rape, murder, dacoity or the cases under the Special Statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc.

7. It has also been repeatedly held that the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused in great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite a full and complete settlement and compromise with the victim. Reliance can be placed upon *Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojiroo Angre*, (1988) 1 SCC 692.

8. In the present case, it appears from the interaction with respondent no.2/ Complainant that he is not going to support the case of the prosecution and the possibility of conviction is remote and bleak. In view of the matter, the continuation of the criminal proceedings would be an exercise in futility and it is an abuse of the process of the court. There would be no purpose in continuing with the present proceedings and accordingly, FIR No. 0262/2016 registered at PS Najafgarh under Section 288/304A IPC and all the proceedings emanating therefrom are quashed.

9. The present petition along with pending application stands disposed of.