

(2020) 01 DEL CK 0493

In the Delhi High Court

Case No : Criminal Miscellaneous Case No. 3878 Of 2019

Kamal Kishore

APPELLANT

Vs

State (Nct Of Delhi) & Ors

RESPONDENT

Date of Decision : 22-01-2020

Acts Referred:

Indian Penal Code, 1860 — Section 304A, 307

Code Of Criminal Procedure, 1973 — Section 320, 482

Citation : (2020) 01 DEL CK 0493

Hon'ble Judges : Rajnish Bhatnagar, J

Bench : Single Bench

Advocate : V.P. Katiyar, Puneet Verma, Amit Ahlawat, Dheeraj Pandey

Final Decision : Disposed Of

Judgement

Rajnish Bhatnagar, J

1. This petition has been filed by the petitioner under Section 482 Cr.P.C. for quashing of FIR No. 0381 dated 9.7.2019, U/s 304-A IPC, registered at Police Station Narela Industrial Area, Delhi against the petitioners on the ground that matter has been settled between the parties.

2. In brief, the facts of the case are that on 8.7.2019 at 19.29 PM an information through PCR call was received at P.S.Narela that a boy has been electrocuted at B-2609, Bhorgarh, Narela DSIIDC, who has been taken to hospital. An information was recorded vide DD No. 54A at police station and marked to ASI Narender for enquiry. Subsequently, an information was received from ESI Hospital, Sector-15, Rohini, Delhi that Umesh Yadav, son of Chotu Yadav, R/o B-2573,DSIDC Narela Delhi, aged 37 years was admitted in the Hospital and vide MLC No. 177/2019 on which doctor has stated that A/H/O Electric Shock brought dead. No eye witness was found at the factory and in hospital, and ASI Narender got the FIR No. 381/2019 dated 09.7.2019 registered under Section 304A IPC on DD Entries.

3. The petitioner has compromised the matter with the legal heirs of deceased Umesh Yadav, who was employed in the factory of the petitioner. As per their free will and consent, they have entered into a Settlement Deed dated 30.7.2019. As per the Settlement Deed, the petitioner has agreed to compensate the legal heirs of Umesh Yadav in the following manner:-

(i) The petitioner has agreed to pay a sum of Rs.4,00,000/-(Rs. Four Lacs) to the respondents, out of which, Rs.50,000/-has already been paid to Smt. Sharda Devi, the wife of deceased Umesh Yadav.

(ii) It was agreed that out of Rs.3,50,000/-, the petitioner shall pay a sum of Rs.20,000/- in cash to Smt. Sharda Devi, and further shall pay Rs.45,000/- each by way of Bank Draft to Surjeet Kumar, Sonu Kumar, minors in the name of Smt. Sharda Devi and Rs.45,000/- each to Sh. Chhajju Yadav and Stm. Sonia Devi the parents of the deceased Umesh Yadav.

4. Respondent nos. 2 to 6 are personally present in Court, and they have been identified by the IO of this case. They are satisfied with the amount as mentioned in the Settlement Deed, for the reason that they are very poor persons, and have no means to contest the litigations. Respondent no.2 is the widow of the deceased having two minor children. Keeping in view the size of the family, and the fact that the family members of the deceased are poor and have no permanent source of income, in the interest of justice, this Court asked the petitioner to pay Rs.1,00,000/- more to respondent no.2. The petitioner has complied with the directions and has paid a sum of Rs.1,00,000/- over and above the settled amount of Rs.4,00,000/-.

5. Learned APP for the State submits that since the parties have amicably settled the matter and are no longer interested in supporting the prosecution, therefore, looking into the facts and circumstances of the case, no useful purpose will be served in continuing with the proceedings. Since the State has no objection for quashing of the petition, the present petition is allowed looking into the peculiar facts and circumstances of this case.

6. Under the circumstances and looking to the decision of the Supreme Court in the case of Gian Singh Vs. State of Punjab and Another (2012) 10 SCC 303, wherein the Apex Court has referred to a number of matters for the proposition that even a noncompoundable offence can also be quashed on the ground of a settlement agreement between the offender and the victim, if the circumstances so warrant; by observing as under:

"58.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."

7. While recognizing the need of amicable resolution of disputes in cases like the instant one, the aforesaid dictum has been affirmed by the Apex Court in a recent judgment in *Narinder Singh & Ors. Vs. State of Punjab & Anr.* 2014 6 SCC 466. The pertinent observations of the Apex Court are 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.

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.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime."

8. In similar like cases, learned Single Judges of this Court have quashed the FIRs in CrI. M.C 4482-84/2006 titled as Chander Mohan Gupta and Ors Vs. The

State (Govt. of NCT of Delhi) decided on 2.8.2006 and Shri Ram Niwas & Anr. Vs. The State (Govt. of N.C.T of Delhi, decided on 8.9.2006.

9. Keeping in view the facts and circumstances of the case, as the matter has been settled between the parties and the settlement amount has been received by the respondents from the petitioner, this petition is allowed and FIR bearing no. 0381/2019, under Section 304-A IPC, registered at Police Station Narela Industrial Area, Delhi, and all proceedings emanating therefrom are hereby quashed.

10. The petition stands disposed of accordingly.