
(2012) 08 DEL CK 0410

In the Delhi High Court

Case No : Criminal M.C. 4153 of 2011 and Criminal M.A. 19295 of 2011

Rajeev Dhanraj

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 06-08-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 279, 304A

Citation : (2013) 2 JCC 1081

Hon'ble Judges : V.K. Shali, J

Bench : Single Bench

Advocate : S.K. Sahijpa, for the Appellant; Sunil Sharma, APP, for the Respondent

Final Decision : Dismissed

Judgement

V.K. Shali, J.—This is a petition filed u/s 482 Cr.P.C. for quashing of FIR No. 265/2003 under Sections 279/304A IPC registered by PS: Mandir Marg, New Delhi on the ground that the petitioner and the respondent No. 2 have arrived at a settlement, in terms of which the petitioner is purported to have paid a sum of Rs. 8,00,000/- to the respondent No. 2 towards the full and final settlement of her entire claim, both with regard to MACT claim as well as for compensation for the criminal case. Briefly stated, the facts of the case are that the respondent No. 8, Rajeev Rana, lodged an FIR No. 265/2003 under Sections 279/304A IPC at PS: Mandir Marg, New Delhi regarding a road accident at Wellington Crescent near Shehenshah Restaurant, New Delhi in which one Rajender Prasad Sati was injured and he succumbed to injuries later on. The petitioner was a minor and was driving the offending vehicle bearing registration No. DL9CA-0798. On account of the aforesaid accident, the respondent No. 2, widow of late Rajender Prasad, not only lodged an FIR under Sections 279/304A IPC, but also filed a case for damages before the Motor Accident Claim Tribunal. Respondent nos.3 to 7 are the other legal heirs of deceased Rajender Prasad. The Motor Accident Claim was settled between the parties, as has been recorded in the order dated

27.11.2008, and the petitioner had paid a sum of Rs. 8,00,000/- towards the full and final settlement of the entire claim of the respondent for motor accident claim as well as for the criminal case. The statements of Rama Devi and that of Rajeev Dhanraj in this regard were also recorded.

2. It has been contended by the Learned Counsel for the petitioner since the parties have arrived at a compromise and an amount of Rs. 8,00,000/- has already been paid to the widow of the deceased for her own benefit and for the benefit of the other legal heirs, therefore, the aforesaid FIR and the consequent proceedings, which are pending in the competent court, may be quashed. It has further been stated by the Learned Counsel that the delay in filing the petition u/s 482 Cr.P.C. has been occasioned because of the fact that the petitioner was trying to locate the respondent No. 2, but despite his sincere efforts, he could not trace her. It was urged since the respondent No. 2 has received the entire claim amount, the continuance of these proceedings against the petitioner would serve no useful purpose and, therefore, the same be quashed.

3. The learned APP has contended that a perusal of the order dated 27.11.2008 would show that an amount of Rs. 8,00,000/- was paid voluntarily to the respondent No. 2 towards the full and final settlement of her claim, only with regard to motor accident claim and not for the criminal case. The attention of the Court was drawn to various documents in this regard.

4. So far as the petitioner is concerned, he has raised an objection in this regard and has contended that a perusal of the order dated 27.11.2008 would clearly show that an amount of Rs. 8,00,000/- has been received by the respondent No. 2 on account of the settlement of the motor accident claim as well as the criminal case and, therefore, insists that the FIR and the consequent proceedings be quashed.

5. I have carefully considered the submissions made by the respective sides and gone through the record.

6. I find merit in the contention of the learned APP that a perusal of the order dated 27.11.2008, a copy of which has been placed at page nos.16-18 of the Paper Book, clearly shows that the present petitioner has voluntarily paid a sum of Rs. 8,00,000/- towards the full and final settlement of the entire claim of the respondent No. 2, so far as the MACT case is concerned and not with regard to criminal case. This payment could not be construed as a compromise which will encompass within itself the settlement of the criminal offence also. The issue regarding the non settlement of the criminal offence is further fortified, inasmuch as the respondent No. 2 did not appear in Court to support this contention of the petitioner. The reliance of the petitioner on the order passed by the learned Trial Court about the compromise purported to have been recorded between the parties is of no consequence unless and until the respondent No. 2 specifically agrees to the quashing of the FIR.

7. The offence of causing death by rash and negligent driving is a very serious

offence, inasmuch as persons, without proper driving skills and without adhering to the traffic rules, are taking innocent lives. In the instant case, it has come on record that the petitioner, on the date of accident, was driving the vehicle which caused the accident, despite the fact that he was a minor. I, therefore, feel that it is not a fit case to quash the FIR and the consequent proceedings. Accordingly, the present petition, in my view, is totally misconceived and deserves to be dismissed. Accordingly, the petition is dismissed.