

(2019) 03 DEL CK 0098

In the Delhi High Court

Case No : Criminal Miscellaneous Case No. 4945 Of 2017, Criminal Miscellaneous Application No. 19634 Of 2017

Sabra Bibi

APPELLANT

Vs

State & Ors

RESPONDENT

Date of Decision : 12-03-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 288, 304A
Code of Criminal Procedure, 1973 — Section 482

Citation : (2019) 03 DEL CK 0098

Hon'ble Judges : Sunil Gaur, J

Bench : Single Bench

Advocate : Manish Vashisht, Neelam Sharma, Rikky Gupta

Final Decision : Disposed Off

Judgement

Petitioner is the widow of Sheikh Munna, who had unfortunately died at the Metro site in South Extension, Part-II, New Delhi due to accidental fall of sound attenuator upon him. Respondents No.2 & 3 are the Senior Fitter cum Supervisor and Station Manager/ Engineer respectively with M/S Construction Management Corporation (CMC), who have entered into Memorandum of Agreement of 8th August, 2016 with petitioner and have compensated her to the tune of Rs. 13,57,000/-.

Petitioner's counsel submits that in addition, petitioner is getting pension of Rs. 2,211/- and Rs. 551/- each for her two minor children.

Quashing of FIR No. 518/2016, under Sections 288/304A/34 of IPC, registered at police station Hauz Khas, New Delhi is sought on the ground the Memorandum of Settlement of 8th August, 2016 (Annexure A- 4) has been acted upon. Petitioner affirms the contents of her affidavit of 21st November, 2017 filed alongwith this petition and submits that death of her husband was purely accidental and so, proceedings arising out of FIR be brought to an end. Counsel for second and third respondents support the stand taken on behalf of petitioner.

Supreme Court in Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Vs. State of Gujarat (2017) 9 SCC 641 has reiterated the parameters for exercising inherent jurisdiction under Section 482 Cr.P.C. for quashing of FIR / criminal complaint, which are as under:-

16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice".

Upon hearing and on perusal of FIR, charge-sheet filed, Memorandum of Settlement of 8th August, 2016 (Annexure A-4) and status report of this case, I find that continuance of proceedings arising out of FIR in question would be an exercise in futility.

Accordingly, this petition is allowed subject to costs of Rs. 50,000/-to be deposited by M/S Construction Management Corporation (CMC) (who is employer of second and third respondents) with Prime Minister's National Relief Fund within two weeks from today. Upon placing on record the proof of deposit of costs within a week thereafter and handing over its copy to the Investigating Officer, FIR No. 518/2016, under Sections 288/304A/34 of IPC registered at police station Hauz Khas, New Delhi and the proceedings emanating therefrom shall stand quashed.

This petition and application are accordingly disposed of.

Dasti.