

Deepak Kumar Aggarwal vs State Of Nct Of Delhi & Ors on 7 July, 2022

Author: Yogesh Khanna

Bench: Yogesh Khanna

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(CRL) 1463/2022

DEEPAK KUMAR AGGARWAL

Through: Mr.L.K.Verma and Mr.Mohit
Advocates with petitioner.

versus

STATE OF NCT OF DELHI & ORS.

Through: Ms.Jyoti Babbar, Advocate f
Mr.Rajesh Mahajan, ASC for
State with SI Rakesh Kumar
Fatehpur Beri.
Mr.Gaurav Pratap
Mr.Arjun Singh, Advocates
respondents No.2 & 3 with
respondents in person.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% 07.07.2022

1. Petitioner file this writ petition for quashing of the FIR No.190/2022 under Section 290/304A Indian Penal Code registered at police station Fatehpur Beri against him and the proceedings emanating therefrom.

2. The aforesaid FIR was registered on the death of husband of respondent No.2 at farm house situated at Aaya Nagar, Delhi which belongs to the son of the petitioner and has given authority to petitioner to file this petition.

3. The son of petitioner is residing abroad. The deceased husband of respondent No.2 was employed as a gardener at the adjoining farm house owned by Deepak Chadha and both the farm house are having a common iron fencing to separate them. The owner of the farm house i.e. son of the petitioner is not regularly visiting the farm house and it was being looked after by a caretaker viz respondent No.3. The FIR was lodged on the complaint of respondent No.3 and it is alleged during the intervening night of 4-5th May, 2022 there was heavy thunder storm and due to which the electric wire were damaged and current start flowing on the iron fencing.

4. The deceased husband of respondent No.2 when was working as a gardener on 05.05.2022 at 09.30AM in the adjoining farm house owned by Deepak Chadha and suddenly complainant /respondent No.3 heard screaming of deceased. He immediately rushed towards deceased and found the deceased was lying on ground and was having burn injuries. He immediately switched off the MCB from the electricity box and thereafter he took the deceased to hospital with the help of one Aman, where he was declared brought dead.

5. It is stated the incident happened because of electric current as the electric wires on the side of petitioner were damaged due to the heavy storm and thunders/rains in Delhi in the same intervening night of 04-05th May, 2022 and there was no negligence on the part of the petitioner herein.

6. Even otherwise, the matter has since been settled between the parties per settlement dated 02.07.2022 and petitioner has paid the entire settled amount of Rs.3.50 Lacs to respondent No.2.

7. The learned counsel for petitioner has also referred to Arshad Ahmad vs State of NCT of Delhi, W.P.(Crl) No.1185/2022; Gain Singh vs State of Punjab (2012) 10 SCC 303; and Narinder Singh vs State of Punjab (2014) 6 SCC 466 to say the FIR under Section 304A IPC be quashed in view of the settlement arrived at between the parties and offence being personal in nature and there being no negligence on the part of the petitioner herein.

8. The wife of the deceased /respondent No.2 and respondent No.3/ complainant have been duly identified by the Investigating Officer, states the matter has been settled with the petitioner and she has no objection if the FIR is quashed. The learned counsel appearing on behalf of the ASC for the State submits though she has no objection to settlement between the parties and quashing of the FIR, but the compensation amount should be increased as respondent No.2 has lost her husband. The affidavits of parties and the settlement dated 02.07.2022 are on record.

9. The petitioner has come forward to pay Rs.50,000/- to respondent No.2 over and above already paid amount of Rs.3.50 Lacs.

10. In Taranjeet Singh V. State (Govt. of NCT of Delhi) WP(Crl) 550/2020 delivered on 13.03.2020 this Court passed the following order:-

6.In Kamal Kishore vs. The State (NCT of Delhi) and Ors. Cr.L.M.C. 3878/2019 decided on 22.01.2020, FIR under Section 304-A of IPC was quashed by this Court. Further in Babu Khan and Ors. Vs. State and Ors. In W.P.(CRL.) 2227/2019 decided on 05.09.2019, FIR under Section 288/304A of IPC was quashed. Further in C.R.R. No.1173/2018 Kolkata High Court had quashed a FIR under Section 304 (II) of IPC, registered under other sections too.

7. In Pankaj Bhardwaj and Ors. Vs. State and Ors. the following was held:

"9. It is a well settled law that where the High Court is convinced that the offences are entirely personal in nature and therefore do not affect public peace or tranquillity and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, pursuing prosecution would be waste of time and energy. Non-compoundable offences are basically an obstruction in entering into compromise. In certain cases, the main offence is compoundable but the connected offences are not. In the case of B.S. Joshi and others v. State of Haryana and another 2003 (4) SCC 675 the Hon'ble Apex Court observed that even though the provisions of Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C. The Hon'ble Apex Court laid down that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, section 320 Cr.P.C. would not be a bar to the exercise of power of quashing. In the nutshell, the Hon'ble Apex Court justified the exercise of powers under Section 482 Cr.P.C. to quash the proceedings to secure the ends of justice in view of the special facts and circumstances of the case, even where the offences were non compoundable."

11. Reference is also made to WP(Crl) 1504/2020 Rahisuddin Madni V. Govt. of NCT of Delhi Through Standing Counsel Criminal delivered on 08.01.2021 in this context.

12. Considering the above settlement between the parties, there is no impediment in quashing of the FIR as respondent No.2 has settled all the disputes and has received the settled amount from the petitioner. In view of the above, there is no use to continue with the proceedings against petitioner as it would never entail in his conviction.

13. The petitioner is directed to pay Rs.50,000/- to respondent No.2 within a week from today in the presence of the Investigating Officer and proof thereof be furnished on record.

14. Accordingly, the petition is allowed. Consequently, FIR No.190/2022 under Section 290/304A Indian Penal Code registered at police station Fatehpur Beri and the proceedings emanating therefrom are quashed, subject to above payment of Rs.50,000/- to respondent No.2. Pending application, if any, also stands disposed of. No order as to costs.

YOGESH KHANNA, J.

JULY 07, 2022 M