

Rajesh Dalal And Anr & Anr vs State Of Nct Of Delhi & Ors on 15 October, 2020

Author: Vibhu Bakhru

Bench: Vibhu Bakhru

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(CRL) 1261/2020

RAJESH DALAL AND ANR & ANR.

Through Mr Vinay Kumar Sharma, Advoc

versus

STATE OF NCT OF DELHI & ORS.

..... Respon

Through Mr Avi Singh, ASC for State with

Ms Purnima Malik, Advocate for R1.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% 15.10.2020 [Hearing held through videoconferencing]

1. The petitioners have filed the present petition, inter alia, praying that the FIR No. 0248/2020, under Sections 288/337/304A of the IPC, registered with PS Kanjhawala, Delhi and all proceedings emanating therefrom, be quashed.
2. The present petition is premised on a settlement arrived at between the petitioner and the legal heirs of the deceased.
3. The said FIR was registered at the instance of Aarif (respondent no.
- 4), who was employed by the petitioners for laying HPL sheets. He stated that a bamboo pad had collapsed during work, resulting in the deceased suffering serious injuries leading to his demise.
4. Information was received on 14.07.2020 that the injured (Sajid) was admitted to Shri Agrasen Hospital, Sector-22, Rohini. However, his family members removed him from the said hospital against medical advice. He was thereafter, admitted to Max Hospital Panipat, Haryana on the same day, that is, 22.07.2020. Subsequently, on 28.07.2020, he succumbed to his injuries.
5. The status report indicates that the post-mortem of the deceased was conducted after exhuming his body. The investigation further revealed that the wooden material used in the construction of the scaffolding was made of weak timber and it is alleged that the same was also pointed out to the

petitioners. But despite the same being pointed out, the petitioners did not take any steps to ensure the safety of the workers. They also did not provided any safety equipment to the workers.

6. The allegation against the petitioners is of committing an offence under Section 304A of the IPC. Considering the averments made in the status report, this Court is unable to accept that the allegation of gross negligence is insubstantial or ex facie untenable.

7. This Court has in a number of cases has held that there are certain offences of a private nature and FIRs in regard to those offences, can be quashed, on the basis of a settlement. There are certain offences which are serious and heinous offences. FIRs in relation to these offences cannot be quashed, even though the concerned parties may be willing to amicably settle the same. There is yet another category of offences, which may not be in the nature of private disputes, but nonetheless, FIRs in relation to such offences can be quashed, if the court finds that continuing the proceedings would unfairly prejudice the accused and the interest of justice warrants quashing the same. (Narinder Singh and Ors. v. State of Punjab: (2014) 6 SCC 466).

8. In Bhajan Lal Sharma & Anr. v. State (Govt. of NCT of Delhi) & Ors.: W.P.(Crl.) 1280/2016, decided on 01.08.2016, this court had observed that offences under Section 304-A of the IPC, which indicate gross negligence, cannot be quashed. This Court had also observed that the same would amount to placing a premium on negligence.

9. Although in certain cases where this Court has felt that ends of justice would be served, FIRs under Section 304-A of the IPC have been quashed. However, this Court is of the view that the present case is not one such case. Considering the facts of this Case, this Court is unable to accept that the present FIR ought to be quashed on the basis of a settlement of the petitioners and the legal heirs of the deceased.

10. It is also relevant to note that the petitioners are also not ready to pay a fair compensation to the legal heirs of the deceased but have agreed to bear only the medical expenses of the deceased.

11. In view of the above, the present petition is dismissed.

VIBHU BAKHRU, J OCTOBER 15, 2020 pkv