

Bhavna Arora vs State Of Delhi & Anr on 18 May, 2022

Author: Jasmeet Singh

Bench: Jasmeet Singh

\$~3

*

+

IN THE HIGH COURT OF DELHI AT NEW DELHI
CRL.M.C. 1836/2022 & CRL.M.A. 9714/2022
BHAVNA ARORA

Through: Mr. Pradeep Dhingra, Adv
versus

STATE OF DELHI & ANR.

Through: Mr. Amit Chadha, Ld. APP

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH
ORDER

% 18.05.2022

1. This is a petition filed seeking quashing of the FIR No.37/2019 dated 29.03.2019 registered at PS Mandir Marg under Section 279/304A of IPC.

2. As per the allegations, the petitioner was driving her car wherein one Ms. Vimla Devi, aged 73 years along with her husband i.e. respondent No.2 who is present in Court today, was going towards Mandir Marg Lane where they met with an accident at Mandir Marg Lane.

3. Ms. Vimla Devi was taken to the Ram Manohar Lohia Hospital (RML) by the petitioner wherein she expired on 01.04.2019.

4. The petition for quashing has been filed on the ground that the petitioner was not at fault in the accident. It is further submitted that a settlement agreement dated 17.04.2022 has been executed between the petitioner and the husband of the deceased Mr. Sant Sharn Dube, wherein the respondent No.2 has no objection to the quashing of the FIR.

5. The respondent No.2 states that the petitioner had not only taken victim to the hospital but also had taken all possible care of the victim. He further states that the petitioner was neither rash nor negligent in her driving.

6. On 27.04.2022, this Court directed all Class-I legal heirs of the deceased Vimla Devi to be impleaded and their "No Objection" to be filed.

7. Pursuant to the said direction, amended memo of parties have been filed, wherein respondent Nos. 3 to 5 have been impleaded as Class-I legal heirs. The "No Objection" of respondent Nos. 3 to 5 are also on record.

8. A coordinate bench of this Court in the judgment, Amit Kumar vs. State (Govt. of NCT of Delhi) in CRL.M.C. 4686/2015 dated 01.04.2016 while quashing an FIR under Sections 279/304A IPC has relied on the Supreme Court judgment of Narinder Singh vs. State of Punjab (2014) 6 SCC 466 to state that by determining certain principles, the High Court can quash non-compoundable offences. In Amit Kumar (supra), the Court quashed an FIR u/s 279/304A by satisfying itself that the situation demanded the same. The relevant paras are as under:

"6. The aforesaid dictum stands reiterated by the Apex Court in a recent judgment in Narinder Singh v. State of Punjab (2014) 6 SCC

466. The relevant observations of the Apex Court in Narinder Singh (Supra) 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.

10. 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."

9. Parties have settled their matter. The respondent No.2 further states that petitioner was neither negligent nor rash in her driving.

10. I am convinced that quashing of such proceedings would bring about peace and would secure ends of justice, specially, when the respondent No.2 does not attribute any fault to the respondent. The proceedings are quashed as the respondent has decided to put a quietus to the matter. The Court does not see any fruitful purpose if criminal proceedings are continued to be prosecuted any further. It is a fit case for quashing.

11. For the reasons stated above, the petition is allowed and the FIR No.37/2019 dated 29.03.2019 registered at PS Mandir Marg under Section 279/304A of IPC and all consequential proceedings emanating therefrom are hereby quashed subject to the petitioner planting 100 trees with a nursery life of at least 5 years in consultation with the Investigating Officer, who shall get in touch with the concerned Horticulture Department and indicate the area, where the trees are to be planted.

12. The petitioner and will look after their planted tree for a period of 10 years. The learned APP for the State shall be informed with regard to each and every step in this regard. The 6 monthly status report along with photograph shall be filed. The planting of trees shall be completed within a period of 6 weeks from today.

13. The Investigating Officer shall be in touch with all the petitioners to do the needful.

14. After initial planting of trees, the I.O. will file a compliance report. The petitioner will file a status report every 6 months giving the status of trees planted along with photographs.

15. List for compliance on 17.08.2022.

JASMEET SINGH, J MAY 18, 2022 / (MS) [Click here to check corrigendum, if any](#)