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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 2237/2026

ISTFAQ ALIAS ISHTEFAQ & ANR.

.....Petitioner

Through: Mr. Sudhir Kr. Sukhija, Mr. Amal
Sukhija, Advocates.

versus

STATE NCT OF DELHI AND ANR

.....Respondent

Through: Mr. Hitesh Vali, APP for State.
ASI Rajender Kumar, PS Vivek
Vihar.
SI Rajat Malik, PS Dwarka South.
Ms. Anurag Vashisht, Advocate
alongwith R-2 in person.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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16.04.2026

1. The petitioners have filed this petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ["BNSS"] (corresponding to Section 482 of the Code of Criminal Procedure, 1973 ["Cr.P.C"]) seeking quashing of FIR No. 36/2026 dated 26.01.2026, registered at Police Station Vivek Vihar, District Shahdara, Delhi, under Sections 290/106(1) of the Bharatiya Nyaya Sanhita, 2023 ["BNS"] and all consequential proceedings emanating therefrom, on the ground of settlement.
2. Petitioner No.1, Istfaq@Ishtefaq, is a contractor, and petitioner No. 2, Narinder Bhasin, is the owner of property bearing No. D-47, Vivek Vihar Phase-I, Delhi. Petitioner No. 2 had engaged petitioner No.1 vide agreement dated 03.01.2026 for dismantling/demolition of the structure at



the said property. The deceased, Amarjit Ray @ Amarjeet Kumar, husband of respondent No. 2, was working as a labourer on job-work basis under petitioner No.1 at the aforesaid site. The deceased is survived by his mother, wife, and four minor children.

3. As per the status report placed on record, the prosecution case is that on 25.01.2026 at about 3:30 PM, during the course of demolition work at the said premises, a wall collapsed and the deceased fell from the second floor while dismantling the structure. The injured was immediately taken to Cosmos Superspeciality Hospital, Anand Vihar, Delhi, where he was declared brought dead. On the basis of a PCR call and the Medico Legal Case, FIR No. 0036/2026 came to be registered at P.S. Vivek Vihar on 26.01.2026. It was alleged that the petitioners had not provided adequate safety equipment such as helmets, scaffolding, or protective measures. No chargesheet has been filed till date.

4. During the pendency of investigation, the parties have amicably resolved their disputes. A Deed of Settlement dated 19.03.2026 has been executed between the petitioners and respondent No.2 (widow of the deceased, with respondent No. 2 agreeing that the incident was accidental and expressing no desire to pursue the criminal case. The settlement contemplates payment of Rs. 5,00,000/- to respondent No. 2 and her minor children.

5. Pursuant to the order dated 27.03.2026, an amended petition has been filed impleading the mother of the deceased, Chnma Devi, as respondent No. 3. A supplementary Deed of Settlement dated 14.04.2026 has also been placed on record, whereby the earlier settlement has been modified and expanded to include the mother of the deceased as an



additional party. The parties have reiterated that the incident dated 25.01.2026 was accidental in nature and the legal heirs do not wish to pursue FIR No. 36/2026. The total compensation amount has been enhanced to Rs. 10,00,000/-, payable jointly by the petitioners to the legal heirs of the deceased. Out of the said amount, Rs. 8,00,000/- shall be paid to the wife and four minor children of the deceased, and Rs. 2,00,000/- shall be paid to the mother of the deceased.

6. In light of the aforesaid, the parties seek quashing of the impugned FIR and consequential proceedings emanating therefrom.

7. The parties are present in Court and are identified by their respective counsel and by the Investigating Officer.

8. Learned counsel for the parties confirm that the settlement has been entered into voluntarily and without any coercion or undue pressure.

9. Although the offences under Sections 290/106(1) of the BNS are non-compoundable, it is well settled that the High Courts, in exercise of their inherent jurisdiction under Section 482 of the CrPC (corresponding to Section 528 of the BNSS), may quash criminal proceedings, even in respect of non-compoundable offences, where the parties have amicably settled their disputes, provided that no overriding public interest is adversely affected.

10. The Supreme Court, in *Gian Singh v. State of Punjab and Anr.*¹, held as follows:

“58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an

¹ (2012) 10 SCC 303.



exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, **where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated.** The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.”²

Further, in *Narinder Singh and Ors. v. State of Punjab and Anr.*³, the Supreme Court has also laid down guidelines for High Courts while accepting settlement deeds between parties and quashing the proceedings. The relevant observations in the said decision read 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

² Emphasis supplied.

³ (2014) 6 SCC 466.



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.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.”⁴

11. The non-compoundable nature of Section 106(1) of the BNS (corresponding to Section 304A of the Indian Penal Code, 1860), thus, does not, *ipso facto*, operate as an absolute bar to the exercise of this Court’s inherent jurisdiction to quash criminal proceedings. This Court has, in a catena of decisions, delineated the circumstances in which such

⁴ Emphasis supplied.



power may be invoked even in cases arising under the said provision. In *Babu Khan and Anr. v. State and Ors.*⁵, after adverting to the aforesaid decisions of the Supreme Court, this Court observed as follows:

“20. In Jacob Mathew v. State of Punjab, (2005) 6 SCC 1, the Supreme Court had explained that for a negligent act to constitute an offence, under Section 304A of the IPC, the same should be gross negligence and an element of mens rea must be shown to exist. The Court had further explained that the degree of negligence which is punishable under Section 304A of the IPC should be of a high degree. The Court had observed as under:—

“48. We sum up our conclusions as under:

...(5) The jurisprudential concept of negligence differs in civil and criminal law. What may be negligence in civil law may not necessarily be negligence in criminal law. For negligence to amount to an offence, the element of mens rea must be shown to exist. For an act to amount to criminal negligence, the degree of negligence should be much higher i.e. gross or of a very high degree. Negligence which is neither gross nor of a higher degree may provide a ground for action in civil law but cannot form the basis for prosecution.

(6) The word ‘gross’ has not been used in Section 304A of IPC, yet it is settled that in criminal law negligence or recklessness, to be so held, must be of such a high degree as to be ‘gross’. The expression ‘rash or negligent act’ as occurring in Section 304A of the IPC has to be read as qualified by the word ‘grossly’...”

21. Thus, while evaluating whether a proceeding relating to an alleged offence, under Section 304A of the IPC, be quashed on the basis of a settlement between the accused and the victim, it would also be necessary to consider whether it is probable that the facts presented would constitute gross negligence and an element of mens rea, which is likely to secure a conviction.”

The Court specifically rejected the submission that, an earlier judgment in *Bhajan Lal Sharma v. State (Govt. of NCT of Delhi)*⁶ operates as a bar to the adoption of such a course⁷.

⁵ 2019 SCC OnLine Del 10007 [hereinafter, “*Babu Khan*”].

⁶ 2019 SCC OnLine Del 4234.

⁷ *Babu Khan*, paragraph 8.



12. A coordinate Bench of this Court, in *Sunil Malhotra v. State (NCT of Delhi)*⁸, undertook a comprehensive examination of precedents on the said issue and concluded that proceedings arising out of an offence under Section 106(1) of the BNS are amenable to quashing, including in cases where a settlement has been entered into with the legal heirs of the deceased. The Court reiterated the well-settled principle that criminal liability for negligence under Section 106(1) of the BNS is attracted only where the negligence is of a gross nature, to be determined on an assessment of the facts and circumstances of each case.

13. Applying the principles enunciated above, the material placed on record *prima facie* indicates that the incident was accidental in nature and arose in the course of work being undertaken at the site, and cannot be attributed to any intentional or grossly negligent act on the part of the petitioners. No material has been brought to the notice of this Court which would, *prima facie*, disclose such a degree of rashness or negligence as would satisfy the threshold of “gross negligence” so as to necessitate continuation of criminal proceedings under Section 106(1) of the BNS, despite settlement. Respondent Nos. 2 and 3 have also affirmed before this Court that the settlement has been entered into voluntarily and without any coercion or undue influence. Having regard to the unequivocal stand taken by the respondents that they do not wish to pursue the matter any further, the possibility of the prosecution establishing criminal negligence beyond reasonable doubt appears remote and bleak. In these circumstances, continuation of the criminal proceedings would serve no useful purpose and would not advance the

⁸ 2023 SCC OnLine Del 7365.



ends of justice.

14. The supplementary settlement contemplates payment of Rs. 10,00,000/- to the respondents, out of which Rs. 2,00,000/- has already been received. The balance amount of Rs. 8,00,000/- is paid to the respondents jointly by the petitioners in Court. There is, therefore, no impediment to grant of the relief sought.

15. Having regard to the above discussion, the petition is allowed, and FIR No. 36/2026 dated 26.01.2026, registered at Police Station Vivek Vihar, District Shahdara, Delhi, under Sections 290/106(1) of the BNS, alongwith all consequential proceedings arising therefrom, is hereby quashed.

16. The parties will remain bound by the terms of the settlement.

17. The petition accordingly stands disposed of.

PRATEEK JALAN, J

APRIL 16, 2026/‘pv/JM’/