

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

+ **CrI.M.C. No. 3990/2009**

Date of Order: 7th January 2010

RAJINDER KAUR Petitioner
! Through: Mr. R.S. Malik and
Mr.Ashok Ahlawat, Advs.

versus

\$ STATE Respondent
^ Through: Mr. Pawan Bahl, APP with
SI Devinder Singh, P.S. Rajinder
Nagar.

* **CORAM:**
HON'BLE MR. JUSTICE V.K. JAIN

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| 1. | Whether the Reporters of local papers may be allowed to see the judgment? | No |
| 2. | To be referred to the Reporter or not? | No |
| 3. | Whether the judgment should be reported in the Digest? | Yes |

: **V.K. JAIN, J. (Oral)**

1. This is a petition under Section 482 of the Code of Criminal Procedure for quashing FIR No. 186/2005 registered at Police Station Rajinder Nagar under Sections 279/338 of IPC. The FIR in this case was lodged by one Matloob, who alleged that while

he was driving a motorcycle, he was hit by car No. PB-10Y-2589, which was being driven by a girl.

2. A perusal of the charge sheet and statements of witnesses recorded under Section 161 of the Code of Criminal Procedure, copies of which have been placed on record by the learned counsel for the petitioner, shows that the complainant Matloob was the only witness who could have proved the alleged criminal rashness and/or negligence on the part of the petitioner, who is alleged to be the driver of the car that had hit the complainant.

3. The complainant Matloob has since died, on account of injuries sustained by him in some other accident in respect of which FIR No. 33/2009 was registered at Police Station Delhi Cantt. On 23rd November 2009 statements of Smt. Husna and Ms. Reshma, daughters of deceased Matloob and Sh. Parvez Khan, son of deceased Matloob, were recorded in this case. They confirmed that their father had met with an accident in the year 2009. That accident was reported vide FIR No. 33/2009 registered at Police Station Delhi Cantt under Sections 279/304-A of IPC. They further confirmed that their father did not die on account of the injuries sustained in the accident reported vide FIR No. 186/2005 lodged at Police Station Rajinder Nagar. This

was further confirmed in the report filed by SHO Police Station Delhi Cantt, on 25th November 2009.

4. The children of deceased Matloob have compromised with the petitioner and have received a sum of Rs.1,75,000/- from her. This includes a sum of Rs.1,00,000/- which was paid to them before Motor Accident Claims Tribunal. They have requested that FIR No. 186/2005 lodged at Police Station Rajinder Nagar and the proceedings arising therefrom be quashed.

5. In '***Jagdish Channana and Ors v. State of Haryana***', AIR 2008 SC 1968, an FIR was registered in Sonapat under Sections 419, 420, 465, 468, 469, 471, 472 and 474 read with Section 34 of IPC. During pendency of these proceedings the parties entered into a compromise and one of the terms of the compromise was that the proceedings pending in the court would be withdrawn, compromised or quashed, as the case may be. The Hon'ble Supreme Court noticing that in the light of the compromise, it was unlikely that the prosecution will succeed in the matter and also noticing that the dispute was purely personal one and no public policy was involved in the transactions that had been entered into between the parties,

held that continuing with the proceedings would be a futile exercise and quashed the FIR and all consequent proceedings.

6. Considering the fact that deceased Matloob was the only witness cited by the prosecution to prove the alleged criminal rashness or negligence on the part of the petitioner, the prosecution of the petitioner is unlikely to result into her conviction. The case is therefore, squarely covered by the above referred decision of the Hon'ble Supreme Court. It does not make good sense to subject the petitioner to trial, in a case of this nature, when even the prosecution does not expect a result favourable to it, at the end of the trial. Holding trial and thereby wasting public resources, including precious time of the Court, in a case involving a relatively minor offence, with no reasonable prospect of conviction, will be an exercise in futility, which our Courts, already overburdened with huge backlog of cases, can hardly afford to undertake. Yet another consideration in this regard is that the offence under Section 338 of IPC was compoundable by the deceased injured, with the permission of the Court. Hence, no useful purpose would be served from continuing the criminal proceedings that were initiated by the deceased. Moreover, the children of the deceased injured have

compromised with the petitioner and have been duly compensated by her.

7. Hence, FIR No. 186/2005 lodged at Police Station Rajinder Nagar under Sections 279/338 of IPC and the proceedings arising therefrom, which are stated to be pending in the Court of Sh. Manish Yaduvanshi, Metropolitan Magistrate, Delhi are hereby quashed.

Crl.M.C. No. 3990/2009 stands disposed of.

Dasti.

**V.K. JAIN
(JUDGE)**

JANUARY 07, 2010

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