

(2012) 03 DEL CK 0244
In the Delhi High Court
Case No : Criminal M.C. 917 of 2012

Amarjeet Singh and Others	Vs	APPELLANT
State and Another		RESPONDENT

Date of Decision : 14-03-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 324, 325, 326, 34

Citation : (2012) 03 DEL CK 0244

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : Mohit, for the Appellant; Rajdipa Behura, APP, for the Respondent

Judgement

Suresh Kait, J.

CRL. M.A. 3190/2012 (Exemption)

Exemption is allowed subject to just exceptions.

Criminal M.A. stands disposed of.

CRL. M.C. 917/2012

1. Notice issued.
2. Ms. Rajdipa Behura, learned APP accepts notice on behalf of State/Respondent No. 1 and respondent No. 2/complainant is present in court.
3. With the consent of parties, the matter is taken up for final disposal.
4. Learned Counsel for the petitioners submits that vide FIR No. 143/2009 dated 15.04.2009, case under Sections 325/34 Indian Penal Code, 1860 was registered against the petitioners at P.S. Dwarka on the complaint of respondent No. 2.
5. Further submits that initially, the FIR was registered under Sections 324/34 Indian Penal Code, 1860 and after investigation, the police filed the Charge

Sheet under Sections 325/34 Indian Penal Code, 1860. However, Charges framed against the petitioners under Sections 326/34 Indian Penal Code, 1860.

7. Ld. Counsel further submits that the parties have amicably settled the matter and respondent No. 2/complainant is no more interested to pursue the case further.

8. Respondent No. 2 is personally present in the court today. He has produced his Driving License for the purpose of his identification issued in his name by Transport Department, Govt. of NCT of Delhi.

9. He submits that due to the intervention of relatives, common friends and community members, he has settled all the issues qua the aforesaid FIR for a total sum of Rs. 55,000/-, therefore he is no more interested to pursue the case. He has no objection if the present FIR is quashed.

10. He further submits that he received the entire settlement amount of Rs. 55,000/- by way of Demand Draft No. 553476 dated 14.1.2012 drawn on Syndicate Bank, Palam, New Delhi.

11. Learned APP for State submits that the offence committed u/s 326 Indian Penal Code, 1860 are non-compoundable in nature.

12. Learned APP referred the decision of Hon'ble Supreme Court in Gian Singh v. State of Punjab & Anr. in SLP (Crl.) No. 8989/2010 whereby the Division Bench of the Supreme Court has referred three earlier decisions viz, B.S. Joshi and Others Vs. State of Haryana and Another, , Nikhil Merchant Vs. Central Bureau of Investigation and Another, & Manoj Sharma v. State & Ors. (2008) 16 SCC 1 to the larger Bench for re-consideration whether the abovesaid three decisions were decided correctly or not. Therefore, she has prayed that till the matter is decided by the larger Bench of the Apex Court, instant petition may be adjourned sine-die. Alternatively, she prayed that in the event, the FIR is quashed, heavy costs should be imposed upon the petitioners, as the government machinery has been pressed into and precious public time has been consumed.

13. The Division Bench of Mumbai High Court in Nari Motiram Hira v. Avinash Balkrishnan & Anr. in Crl. W.P. No. 995/2010 decided on 03.02.2011 has permitted for compounding of the offences of "non-compoundable" category as per Section 320 Cr. P.C. even after discussing Gian Singh (supra).

14. Therefore, I am also of the opinion that unless and until, the decisions which have been referred above, are set aside or altered, by the larger Bench of the Supreme Court, all the above three decision hold the field and are the binding precedents.

15. In addition, the Supreme Court in Shiji @ Pappu & ORs. v. Radhika & Anr in Crl. Appeal No. 2064/2011 decided on 14.11.2011 that the cases of non-compoundable nature can be compounded, certainly not after the conviction observing as under:-

..... That being so, continuance of the prosecution where the complainant is not ready to support the allegations which are now described by her as arising out of some "misunderstanding and misconception"; will be a futile exercise that will serve no purpose. It is noteworthy that the two alleged eye witnesses, who are closely related to the complainant, are also no longer supportive of the prosecution version. The continuance of the proceedings is thus nothing but an empty formality. Section 482 Cr.P.C. could, in such circumstances, be justifiably invoked by the High Court to prevent abuse of the process of law and thereby preventing a wasteful exercise by the Courts below.

16. I found force in the submissions made by learned APP on costs. Accordingly, I direct petitioners No. 3 and 5 to deposit an amount of Rs. 10,000/- each in favour of "Delhi High Court Legal Services Committee, New Delhi", within a period of 02weeks from today. Proof of the same shall be placed on record.

17. I refrain imposing costs upon petitioners No. 1, 2 and 4, keeping in view their poor financial position.

18. In view of above discussion and in the interest of justice, I quash FIR No. 143/2009 registered at P.S. Dwarka and all the proceedings emanating therefrom.

19. Criminal M.C. 917/2012 is allowed on the above terms.

20. Dasti.