

(2012) 12 DEL CK 0305

In the Delhi High Court

Case No : Criminal M.C. No. 2307 of 2012

Ashwani Kohli

APPELLANT

Vs

The State of Delhi and Another

RESPONDENT

Date of Decision : 13-12-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 120B, 404, 420, 467, 468

Citation : (2013) 2 AD 78 : (2013) 1 JCC 460 : (2012) 1 JCC 460

Hon'ble Judges : P.K. Bhasin, J

Bench : Single Bench

Advocate : Ramesh Gupta, with Mr. Bharat Sharma, for the Appellant; M.N. Dudeja, APP for the State and Mr. R.S. Juneja, Advocate for R-2, for the Respondent

Final Decision : Allowed

Judgement

P.K. Bhasin, J.—By way of this petition u/s 482 of the Code of Criminal Procedure, 1973 the petitioner has sought quashing of FIR No. 574/1999 under Sections 420 /404 /467/ 468 /471 /120-B IPC registered against him at police station Connaught Place at the instance of his own brother, respondent no. 2 herein as also the ongoing trial in respect of the said FIR. The registration of the criminal case against the petitioner at the instance of his brother was because of the petitioner selling certain shares, which though were registered in the name of their father but according to the respondent no. 2-complainant were belonging to HUF, namely, R. Kohli and Sons (HUF), by forging the signatures of their father on transfer documents. Those shares were sold after the death of their father without disclosing to the concerned Company about his death. The grievance of the complainant was that the sold shares should have devolved upon the legal heirs of their father but the petitioner pocketed the sale entire proceeds also in conspiracy with a share broker.

2. After investigation charge-sheet was filed in Court by the police against the

petitioner and the share broker. However, during the trial of the case disputes between the brothers were resolved with the intervention of their relatives and friends. The terms of the compromise have been recorded in the compromise deed dated 09.07.2012, copy of which has been annexed with this petition and this petition was filed for quashing of the criminal proceedings in view of the settlement of the disputes between the parties.

3. Learned senior counsel Mr. Ramesh Gupta appearing on behalf of the petitioner submitted that since the brothers have arrived at a settlement no fruitful purpose would be served if the trial in respect of the FIR in question goes on. Mr. Gupta has placed reliance upon the judgments of the Supreme Court reported as *Nikhil Merchant Vs. Central Bureau of Investigation and Another*, ; "*Jayrajsing Digvijaysinh Rana v. State of Gujarat & Anr.*, in Crl. App. No. 8783 of 2011 and *Gian Singh Vs. State of Punjab and Another*, . In all these cases the criminal proceedings in respect of various offences, including those punishable under Sections 420 and 467 IPC, which are involved in the present case also, were quashed because of the compromise between the accused and the complainant in those cases.

4. Notice of this petition was given to the complainant also who appeared in Court and gave no objection to for the quashing of the criminal proceedings going on in Court in respect of the already referred FIR registered by the police at his instance. He also stated that he had given his affidavit also to that effect to the petitioner which had been filed with this petition.

5. Learned APP for the State did not dispute that the criminal proceedings are going on because of family disputes between brothers and so stated that since the brothers had resolved family disputes this Court may pass any appropriate orders in the matter.

6. A three Judges bench of the Hon"ble Supreme Court in a recent judgment in *Gian Singh Vs. State of Punjab and Another*, dealt with the aspect of quashing of non-compoundable criminal proceedings by the High Courts in exercise of the inherent powers u/s 482 of the Code of Criminal Procedure and after noticing all the earlier judgments delivered by it on the point came to the following conclusions:-

57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences u/s 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be

prescribed..... the criminal cases having overwhelmingly and pre-dominantly civil favour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

Since in the present case there was a dispute between two brothers regarding inheritance of some shares of their deceased father and the brothers having amicably resolved their differences this Court is of the view that now continuation of the criminal case arising of the already noted FIR registered at the instance of the respondent no. 2-complainant would tantamount to abuse of process of law and since chances of prosecution succeeding in the case are highly bleak ends of justice would be secured if an end is put to the ongoing trial. Resultantly, this petition is allowed and the FIR in question as also the trial going on in respect of that FIR stand quashed.