
(1999) 10 DEL CK 0056

In the Delhi High Court

Case No : Criminal Misc. (Main) No. 393 of 1999

Ashwani Kumar Gupta and Others

APPELLANT

Vs

State and Another

RESPONDENT

Date of Decision : 15-10-1999

Acts Referred:

Citation : (2000) 3 AD 27 : (2000) 53 DRJ 386

Hon'ble Judges : M.S.A. Siddiqui, J

Bench : Single Bench

Advocate : Mr. V.K. Singh, for the Appellant; M.S. Butalia, Mr. Sanjay Kataria, for the Respondent

Judgement

Crl. M(M) No. 393/99

1. By this petition u/s 482 Cr. P.C. the petitioners seek quashing of the criminal proceedings emanating from the FIR No. 206/95 registered at the Police Station Lajpat Nagar under Sections 498-A/406 IPC and pending on the file of the Metropolitan Magistrate, New Delhi. The petition has been opposed by the respondents.

2. Quashment of the aforesaid criminal proceedings is sought on the ground of settlement between the parties. Learned counsel for respondent No. 2 has seriously disputed the alleged settlement for withdrawal of the criminal proceedings. It is undisputed that the petitioners have been charged under Sections 406/498-A IPC. Both the offences are non-compoundable. The whole scheme of compounding of the offences is dealt with and regulated by Section 320 of the Code of Criminal Procedure. The provisions of Section 320 of the Code are exhaustive in nature and sub-Section (9) to Section 320 is couched in a mandatory form and it lays down that no offence shall be compounded except as provided by Sections 320 of the Code. It is well settled that inherent powers u/s 482 Cr.P.C. cannot be utilised for exercising the powers which are expressly barred by the Code of Criminal Procedure.

3. In Ram Lal and Another Vs. State of Jammu and Kashmir, , it was held that an offence which the law declares to be non-compoundable, even with the permission of the Court, cannot be compounded at all. This judgment has been cited with approval in the decision rendered by the Supreme Court in S.N. Mohanty and Anr. Vs. State of Orissa. J.T. 1999 (3) S.C. 408. In Kamal Dhawan Vs. The State and another (Crl. M. (M). No. 681/96 decided on 6.9.1999) , I have held that criminal proceedings in respect of a non-compoundable offence cannot be terminated or quashed u/s 482 Cr. P.C. on the ground of settlement between the parties as it would run in the teeth of the statutory prohibition contained in Sub-Section (9) of Section 320 Cr. P.C. Thus, what is interdicted by the Legislature in direct terms cannot be obviated in an indirect manner by invoking provisions of Section 482 Cr. P.C. That being so the criminal proceedings in respect of the aforesaid offences cannot be quashed u/s 482 Cr. P.C. on the ground of settlement between the parties.

4. For the foregoing reasons, the petition is dismissed.