

(2019) 03 DEL CK 0317

In the Delhi High Court

Case No : Criminal Miscellaneous Case No. 4603 Of 2016, Criminal
Miscellaneous Application No. 19242 Of 2016

Balvinder Kaur & Ors

APPELLANT

Vs

State & Anr

RESPONDENT

Date of Decision : 11-03-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 380, 448, 457, 506, 506II
Code Of Criminal Procedure, 1973 — Section 482

Citation : (2019) 03 DEL CK 0317

Hon'ble Judges : R.K. Gauba, J

Bench : Single Bench

Advocate : S.K. Kashyap, Sanjeev Sabharwal

Final Decision : Disposed Off

Judgement

1. The fourth petitioner was a tenant in house no.50/2015, third floor, Ashok Nagar, New Delhi-110018, the second respondent being the landlord, the former using the said premises for residence of self and other members of the family which included his mother (first petitioner), his maternal uncle (third petitioner), wife of the said maternal uncle (second petitioner), son of the said petitioner (fifth petitioner). Some dispute arose between the landlord and tenant and became subject matter of civil litigation (Civil suit no.221/2008), the said suit having been decreed in favour of the second respondent (complainant). Eventually, in the course of execution proceedings (case no.08/2009), the parties agreed to amicably resolve the issue, in furtherance of which the fourth petitioner undertook to pay to the second respondent, a total amount of Rs.1.6 Lakhs to full and final satisfaction of his claims.

2. During the interregnum, first information report (FIR) no.348/2009 had been registered with police station Hari Nagar at the instance of the second respondent, facts alleged therein constituting offences under Sections 448, 506, 380, 34 Indian Penal Code, 1860 (IPC); the first to fifth petitioners besides the

sixth petitioner being named as accused. The said FIR was investigated into and charge-sheet laid before court in due course. On its basis, charges were framed by the Metropolitan Magistrate by order dated 14.12.2010 putting the petitioners on trial for offences under Section 457 / 34 IPC, Section 380 / 34 IPC and Section 506 Part II / 34 IPC, the second respondent being reflected in the said charges as the complainant (victim).

3. On the basis of the settlement between the parties, inter alia, reflected by the proceedings in the execution court recorded on 08.01.2016, the present petition was submitted invoking the inherent power and jurisdiction of this court under Section 482 of the Code of Criminal Procedure, 1973 (Cr. PC) seeking quashing of the aforesaid criminal case.

4. The parties appeared before the Registrar (Original) in terms of the directions given in the order dated 12.09.2018 and their statements have been recorded, each of the six petitioners having affirmed the settlement on oath. Similarly, the second respondent, by his statement, recorded by the Registrar on 22.10.2018 has confirmed that he has received an amount of Rs.1.60 Lakhs from the petitioners as full and final settlement of the dispute, he having no objection to the FIR being quashed.

5. Following the spirit of the law laid down in *Gian Singh Vs. State of Punjab and Anr.* (2012) 10 SCC 303 and *Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another*, (2017) 9 SCC 641; the controversy between the parties essentially having arisen out of civil dispute, the prayer in the petition deserves to be granted.

6. In the above facts and circumstances, the petition is allowed. The crime registered by the police vide FIR 348/2009 involving offences punishable under Sections 448, 506, 380, 34 IPC of Police Station Hari Nagar and the proceedings emanating therefrom against the petitioners are hereby quashed.

7. The petition is disposed of accordingly. Dasti to both sides.