

**(2011) 12 DEL CK 0230**  
**In the Delhi High Court**  
**Case No : Criminal M.C. 4337 of 2011**

Bhim Singh and Ors

APPELLANT

Vs

State

RESPONDENT

**Date of Decision :** 23-12-2011

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 320  
Penal Code, 1860 (IPC) — Section 147, 148, 149, 323, 34

**Citation :** (2011) 12 DEL CK 0230

**Hon'ble Judges :** Suresh Kait, J

**Bench :** Single Bench

**Advocate :** S.K. Sethi, for the Appellant; Rajdipa Behura, APP, for the Respondent

**Final Decision :** Allowed

## Judgement

Suresh Kait, J.—Notice issued.

2. Ms. Rajdipa Behura, learned APP for State accepts notice on behalf of state.

3. Learned Counsel for the petitioners submits that the instant petition has been filed jointly by accused persons and complainant to quash the FIR

No. 994/2000 dated 31.10.2000 registered at P.S. Dabri District South West under Sections 147/148/149/452/323/34 Indian Penal Code, 1860

against petitioners Nos. 1 to 10 on the complaint of petitioners No. 11 and 12.

4. Learned Counsels further submit that all the petitioners belong hail from the same locality and the matter has been compromised amicably

between the parties due to the intervention of family friends and relatives.

5. All the petitioners are present in person and have been duly identified by Mr. S.K. Sethi, Advocate. In addition thereto, for the identification of

petitioners Nos.11 and 12 who were also the complainants, they have placed on record their respective affidavits and photographs.

6. Learned Counsel for the petitioners on instruction of petitioners No. 11 and 12 submits that they have amicably settled the matter with

petitioners No. 1 to 10 and they are no more interested in pursuing the case further. They have no objection if the instant FIR is quashed.

7. Learned APP for State submits that except Section 323 Indian Penal Code, 1860, all the other sections pertaining to the instant matter are non-compoundable in nature.

8. Learned APP referred the decision of Hon''ble Supreme Court in Gian Singh v. State of Punjab & Anr. in SLP (Crl.) No. 8989/2010 wherein

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 outcome of the larger

Bench of the Apex Court, present 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 used and precious time of the Court has been consumed.

9. 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).

10. Therefore, I feel 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.

11. Further submits that if the court is inclined to quash the FIR, heavy costs shall be imposed upon the petitioners for misusing the Government

Machinery and consuming the precious time of the Court.

12. Though, I find force in the submissions made by learned APP for State, but keeping in view the poor financial condition of the petitioners, I

refrain imposing costs upon them.

13. In the interest of justice and in view of the statements made by petitioners No. 11 and 12, I quash the FIR No. 994/2000, police station Dabri

and all the proceedings emanating therefrom.

14. Criminal M.C. 4337/2011 is allowed and disposed of.

15. Dasti.