
(2012) 02 DEL CK 0360

In the Delhi High Court

Case No : Criminal M.C. No.4378 of 2011

Gulshan Kapoor

APPELLANT

Vs

State and Anr

RESPONDENT

Date of Decision : 24-02-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 120B, 420, 468, 471

Citation : (2012) 02 DEL CK 0360

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : Manoranjan, for the Appellant; Rajdipa Behura, APP. Mr. Anangpal Singh, for the Respondent

Judgement

Suresh Kait, J.—Learned counsel for the petitioner submits vide FIR No. 466/1991 dated 26.11.1991 u/s 420/468/471/120B of Indian Penal Code, 1860 was registered at PS Jahangirpuri, Delhi, against the petitioner on the complaint of the respondent no. 2. It is further submitted that respondent no. 2 has amicably settled all the issues qua the aforesaid FIR and he is not more interested to pursue the case further. Therefore, the instant petition may be allowed and aforementioned FIR may also be quashed.

2. Respondent no. 2, Sh. Raman Bhatia who is personally present in the court who has been identified by his counsel Anangpal Singh, as respondent no.2. He has submitted that he has settled all the issues and prayed to quash the FIR, as he not interested to pursue the case further. If the FIR mentioned above thereto is quashed, he has no objection.

3. It is further submitted that as per the settlement, the petitioner agreed to pay a sum of Rs. 2 lacs in which Rs. 1 lac has already been received by him and Rs. 1 lac in case has been received in the court itself.

4. Therefore, he is no more interested to pursue the case further and he has no

objection if the instant FIR and proceedings thereto are quashed.

5. Learned APP on the other hand submits that after investigation, chargesheet filed u/s 468/420/471/120B Indian Penal Code, 1860; however, Section 468 and 471 of Indian Penal Code, 1860 are non- compoundable.

6. 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 above said 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.

7. 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).

8. 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.

9. 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.

10. It is further submitted that in charge sheet, two persons have been sent for trial apart from the petitioner. Petitioner has informed this court that co-accused Sh.Krishan Lal has already been expired.

11. Keeping the statement of respondent no.2 into view, FIR No. 466/91 dated 26.11.1991 registered at PS Jahangirpuri on the complaint of respondent no.2 against petitioner and proceedings emanating thereto are hereby quashed.

12. Though, I find force in the submission of learned APP regarding putting the petitioner to some terms; however, considering the financial status of petitioner, I am not inclined to impose any cost upon him.

13. Accordingly, Crl. M.C. No. 4378/2011 is allowed and stands disposed of. Dasti.