
(2011) 12 DEL CK 0323
In the Delhi High Court
Case No : Criminal M.C. 4086 of 2011

Jatan Singh and Others

APPELLANT

Vs

State and Another

RESPONDENT

Date of Decision : 22-12-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320
Penal Code, 1860 (IPC) — Section 120B, 406, 420, 467, 468

Citation : (2012) 1 JCC 232

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : Sudhir Naagar, Mr. Narveer Dabas, Mr. Siddharth Khanata and Mr. Chetan Chawla, for the Appellant; Rajipa Behura, APP for State, Mr. Parvesh Chaudhary, for R-2, for the Respondent

Final Decision : Allowed

Judgement

Suresh Kait, J.—Vide FIR no. 148 dated 25.04.2011, case u/s 406/420/467/468/471/120-B Indian Penal Code, 1860 was registered against the petitioners at PS-Jyoti Nagar on the complaint of respondent no. 2.

2. Ld. Counsel for the petitioners and respondent no. 2 jointly submitted that the matter has been settled in Mediation Centre at Karkardooma Court, New Delhi on 26.08.2011, keeping the settlement deed dated 21.08.2011.

3. It is further submitted that respondent no.2 is no more interested to pursue the case further as he has settled all the issues qua the aforesaid FIR and both have jointly prayed that instant FIR may be quashed.

4. Ld. APP for State submits that the offence u/s 467 and 471 is non compoundable in nature. Therefore keeping the recent judgment of the Double Bench of 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, he 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.

5. The Division Bench of Mumbai High Court in Nari Motiram Hira v. Avinash Balkrishnan & Anr. in CrI.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).

6. She has also referred recent judgment of Hon"ble Supreme Court delivered in case of Shiji @ Pappu and Others Vs. Radhika and Another, , wherein it is observed that the offences of non-compoundable nature can be quashed if the Court thinks fit.

7. 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.

8. I found force in the submission of Id. Counsel for the State. At this Stage, Ld. Counsel for the petitioner has come forward on instructions and submits that the petitioner no. 1 & 2 wish to donate an amount of Rs.1 Lac for the welfare purposes. I appreciate this gesture.

9. Accordingly, I direct the petitioner no. 1 and 2 to deposit total amount of Rs.2 Lacs in Prime Minister Relief Fund within two weeks from today. The proof of the same shall be placed on record.

10. Keeping in view the settlement arrived at between the petitioners and respondent no. 2 and the statement of respondent no. 2, I quash FIR no. 148/2011 registered at PS-Jyoti Nagar with emanating proceedings thereto.

11. CrI. M.C. 4086/2011 is allowed on the above terms.