
(2012) 11 DEL CK 0070
In the Delhi High Court
Case No : Criminal M.C. 3668 of 2009

Karuna Singh

APPELLANT

Vs

State of N.C.T. of Delhi and Another

RESPONDENT

Date of Decision : 21-11-2012

Acts Referred:

Constitution of India, 1950 — Article 20(3)
Criminal Procedure Code, 1973 (CrPC) — Section 482
Negotiable Instruments Act, 1881 (NI) — Section 138

Citation : (2012) 10 AD 418

Hon'ble Judges : Manmohan, J

Bench : Single Bench

Advocate : F.S. Chauhan, for the Appellant; S.S. Jauhar, Advocate for Resp. No. 2, for the Respondent

Final Decision : Dismissed

Judgement

Manmohan, J.—Present petition has been filed u/s 482 Cr. P.C. challenging the order dated 9th September, 2009 passed by the Metropolitan Magistrate whereby at the instance of the respondent-accused, the charge-sheet in FIR No. 13 of 2004 had been summoned and cross-examination of the petitioner had been deferred. Mr. F.S. Chauhan, learned counsel for the petitioner submits that by virtue of the impugned order, the trial court has permitted cross-examination of the petitioner beyond the time period stipulated by this Court in its order dated 21st July, 2009 in W.P.(Crl.) 332/2009. He also submits that due to summoning of the aforesaid charge-sheet, the petitioner would be compelled to disclose her own defence in FIR No. 13 of 2004. Mr. F.S. Chauhan, learned counsel repeatedly emphasized that by summoning the aforesaid charge-sheet, the petitioner's right to silence in FIR No. 13 of 2004 has been violated.

2. On the other hand, Mr. S.S. Jauhar, learned counsel for respondent no. 2 points out that by another order passed by a coordinate Bench of this Court on 5th October, 2012 in Writ Petition (Crl.) No. 664/2011, the learned Judge has

upheld the order of the trial court by virtue of which Rs. 20,000/- costs had been imposed upon the petitioner for deliberately delaying her own cross-examination though a specific time period had been stipulated by this Court vide order dated 21st July, 2009 in W.P.(Crl.) 332/2009.

3. Mr. S.S. Jauhar, learned counsel also states that during the pendency of the present petition, the petitioner had filed Writ Petition (Crl.) No. 31/2012 before the Supreme Court challenging the very same impugned order as in Writ Petition (Crl.) No. 664/2011. He points out that the Supreme Court dismissed the petitioner's writ petition as gross abuse of process of Court with cost of Rs. 20,000/-.

4. Having heard learned counsel for the parties, this Court is of the view that the trial court by summoning the charge-sheet in FIR No. 13 of 2004 has not violated the petitioner's constitutional right of silence.

5. Undoubtedly, Article 20(3) of the Constitution of India confers the right of silence upon every accused. In the event during cross-examination, any question is put by the respondent-accused which violates the right of silence incorporated in Article 20(3) and as upheld by the Supreme Court in *Nandini Satpathy Vs. P.L. Dani and Another*, , this Court has no doubt that the trial court would not allow such a question. But at this stage, it cannot be said that by just summoning the original charge-sheet in FIR No. 13 of 2004, the petitioner's Fundamental Right has been violated. As far as the petitioner's arguments for permitting cross-examination beyond the time period stipulated by this Court is concerned, this Court is of the opinion that keeping in view the subsequent order passed by a coordinate Bench of this Court in W.P. (Crl.) No. 664/2011, it cannot be said that the respondent or the trial court is liable in any manner for delay of disposal of the petition filed by the petitioner u/s 138 of the Negotiable Instrument Act, 1881.

Accordingly, the present petition is dismissed.