

(1990) 08 DEL CK 0037

In the Delhi High Court

Case No : Criminal Miscellaneous (Main) Appeal No. 766 of 1989

Keshav Chander

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 20-08-1990

Acts Referred:

Citation : (1991) CriLJ 744

Hon'ble Judges : M.K. Chawla, J

Bench : Single Bench

Advocate : K.B. Andley and K.K. Bakshi, for the Appellant;

Judgement

M.K. Chawla, J.

(1) This is a petition u/S. 482 of the Criminal Procedure Code . for quashing the proceedings pending against the petitioner u/Ss. 279/337, Indian Penal Code .

(2) On 23.10.79, on the statement of one Sanjay Sehgal, an Fir No. 915/79, u/S. 279/337 Indian Penal Code . was registered at P.S. Roshnara Road, against the petitioner. After investigation, the Police submitted its report u/S. 173 Cr. P.C. praying for the cancellation of the case. In fact, the Investigating agency recommended for the registration of a case u/S. 182 Indian Penal Code . against the complainant Sanjay Sehgal. For sufficiently long time, no action on this recommendation was taken by the court.

(3) ON"17.12.79, Shri Mahinder Lal, father of the said Sanjay Sehgal, filed a private complaint against the petitioner regarding the same incident. The M.M. prima facie found that the case is made put and summoned the petitioner as an accused on 27.9.80. It appears that the M.M. did not accept the cancellation report submitted by the Police although there was no specific order in this behalf.

(4) The private complaint was dismissed for want of prosecution vide order dated 20.7.85. The complainant filed a revision against the said order which was dismissed as withdrawn from the court of the Additional Sessions Judge.

However, the proceedings against the present petitioner continued presumably on the basis of the Police report in which the Police already had recommended the cancellation of the case/FIR.

(5) The contention of the learned counsel for the petitioner is that since 1979, no progress in the said case has been made in as much as there is no complaint before the court nor has list of witnesses been given as the Police had recommended for cancellation of the FIR. The submissions of the learned counsel for the petitioner are well-founded. Once the complaint of the father of Sanjay Sehgal has been dismissed, nothing remains to be proceeded against the petitioner. In fact, the dismissal of the said complaint has the effect of acquittal of the petitioner because it was only the summons case. In his report u/S. 173 of the Cr. P.O., the Police admittedly has not filed any list of witnesses inasmuch as they had prayed for the cancellation of the F.I.R. itself. The Trial Court is adjourning the case for prosecution evidence without examining the record where even the list of witnesses is missing. The petitioner is being put to unnecessary harassment and is facing the ordeal of the trial since 1979 without any fault of his. In my opinion, lower court cannot be allowed to linger on the case for no rhyme or reason.

(6) In exactly similar circumstances in *Sri Niwas Gopal vs. U.T., Arunachal*, 1988 Scc 839, the Fir in a case of accident was quashed inasmuch as; the proceedings lingered on for 9[^] years. During the course of the Judgment. it was observed that the offence of rash and negligent driving is neither a grave and heinous offence nor an offence against the community as such though all criminal offences are crimes against society. Having regard to the nature of offence, the court opined that there is an enormous delay in proceeding with a criminal prosecution by the appellant-91 years.

(7) In view of the law laid down by the Supreme Court and keeping in view the peculiar circumstances of the present case, I have no hesitation to allow the petition and quash the proceedings u/Ss. 279/337 Indian Penal Code arising out of Fir No. 915/79 registered at P.S. Roshnara Road, Delhi, and pending "in the Court of Shri" Nepal Singh, M.M., Delhi.