
(2013) 01 DEL CK 0168
In the Delhi High Court
Case No : Criminal M.C. 3314 of 2012

Kunwar Pal Singh and Others

APPELLANT

Vs

State (NCT of Delhi) and Others

RESPONDENT

Date of Decision : 03-01-2013

Acts Referred:

Citation : (2013) 01 DEL CK 0168

Hon'ble Judges : G.P. Mittal, J

Bench : Single Bench

Advocate : Ajay Kaushik, Along with Petitioners in person, for the Appellant; Rajdipa Behura, APP for the State and Mr. Pankaj Batra, for R-3 Along with Respondent No. 3 in person, for the Respondent

Judgement

G.P. Mittal, J.—This is a Petition u/s 482 of the Code of Criminal Procedure, 1973 (Cr. P.C.) preferred by the Petitioners for quashing of FIR No. 233/2005, u/s 420/468/471/34 IPC, Police Station Sultan Puri and consequential proceedings arising out of the same. FIR No. 233/2005 was registered on the basis of the statement of Savitri Devi (the Complainant). The Petitioners purported to sell a plot of land measuring 48 Sq. Yds. to the Complainant for a sum of Rs. 11,50,000/-. A sum of Rs. 5,50,000/- was paid as an earnest money and certain documents were executed which were taken back by the Petitioners and accused Kunwar Pal and Kamal Kukreja (PO) on the pretext that the documents would be retained by them till the plot is converted to freehold. The Complainant got suspicious and it transpired that the Petitioners were not the owner of the Plot and had cheated the Complainant.

2. A suit for recovery was also filed by the Complainant against the Petitioners and others. The matter was referred to the Delhi Mediation Centre, Tis Hazari where a sum of Rs. 5,50,000/- towards amount paid by the Complainant and a further sum of Rs. 50,000/- towards compensation was agreed to be paid to the Complainant.

3. The abovesaid amount already stand paid in terms of the settlement reached

between the Petitioners and the Complainant.

4. It goes without saying that the offence punishable u/s 468 and 471 IPC are non compoundable.

5. In the case of Gian Singh Vs. State of Punjab and Another, , the three Judges Bench of the Supreme Court dealt with the issue of quashing of FIR in non compoundable offences. Para 57 of the report is extracted hereunder:-

57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences u/s 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

6. The husband of the Complainant is present in person who admits the receipt of a sum of Rs. 50,000/- in addition to the amount of Rs. 5,50,000/- which was paid by the Complainant to the Petitioners.

7. In view of the amicable settlement arrived at between the parties, in my view, no useful purpose would be served by continuing the criminal proceedings against the Petitioners. The Petition is accordingly allowed and FIR No. 233/2005, u/s 420/418/471/34 of IPC, Police Station Sultan Puri and the proceedings arising there from as against the Petitioners only are quashed.