

**(2011) 09 DEL CK 0246**  
**In the Delhi High Court**  
**Case No : Criminal M.C. No. 3184 of 2011**

Mukesh

APPELLANT

Vs

State and Another

RESPONDENT

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**Date of Decision :** 23-09-2011

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 320  
Penal Code, 1860 (IPC) — Section 307

**Citation :** (2011) 09 DEL CK 0246

**Hon'ble Judges :** Suresh Kait, J

**Bench :** Single Bench

**Advocate :** R.B. Singh, for the Appellant; Rajdipa Behura, APP for State and Sanjeev Kumar, for R-2 and Party-in-Person, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Suresh Kait, J.

Crl. M.A. 11325/2011 (Exemption)

Exemption allowed subject to all just exceptions.

CRL.M.C. No. 3184/2011 and Crl. M.A. 11324/2011

1. Issue notice.

2. Ms. Rajdipa Behura, learned APP for State/Respondent No. 1 and Mr. Sanjeev Kumar, Learned Counsel for R-2 accepts notice.

3. Learned Counsel for the Petitioner submits that vide FIR No. 100/2009 dated 24.07.2009 a case u/s 307 of the Indian Penal Code, 1860 was registered against the Petitioner on the complaint of one Devi Sahay at police station Karol Bagh, Delhi.

4. Further submitted that the Respondent No. 2 is the victim who received injuries due to which the aforesaid case has been registered.

5. Further submitted that Respondent No. 2/victim has amicably settled all the disputes qua the aforesaid FIR against the Petitioner vide MOU dated 23.04.2011 and the Respondent No. 2 does not wish to pursue the case against the Petitioner.

6. I note, Petitioner and Respondent No. 2 both were husband and wife. Pursuant to the aforesaid MOU the marriage between the Petitioner and the Respondent No. 2 has been dissolved vide decree of divorce dated 09.06.2011.

7. Respondent No. 2 is present in person with her counsel Shri Sanjeev Kumar, who has identified her as Romil D/o Shri Manohar Lal. Respondent No. 2 submits that she has settled all the issues qua the aforesaid FIR and he does not wish to pursue the case further against the Petitioner. Respondent No. 2 is going to marry in December, 2011. Therefore, she states that the aforesaid FIR may be quashed. For identification, she has produced her election card bearing No. RJN1431527 which is seen and returned.

8. Ms. Rajdipa Behura, learned APP for State submits that in the instant case the FIR has been registered u/s 307 of the Indian Penal Code, 1860, which is "non-compoundable,".

9. Learned APP referred the case of Hon"ble Supreme Court in Gian Singh v. State of Punjab and Anr. in SLP (Crl.) No. 8989/2010 whereby 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, and Manoj Sharma v. State and Ors. (2008) 16 SCC 1 to the larger Bench for re-consideration whether the abovesaid three decisions were decided correctly or not. Alternatively, she prayed that in the event, the FIR is quashed, heavy costs should be imposed upon the Petitioners.

10. The Division Bench of Mumbai High Court in Nari Motiram Hira v. Avinash Balkrishnan and 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).

11. 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.

12. Alternatively, Ld. APP for the States submits that the aforesaid FIR may be quashed with heavy costs.

13. Since, I have taken the same view earlier in catena of cases, therefore, for uniformity, my view is same. The Respondent No. 2 is no more interested in pursuing the case further and their marriage has already been dissolved and the fact that she is going to marry in December, 2011, in the interest of justice, keeping the MOU dated 23.04.2011 into view, FIR No. 100/2009 dated 24.07.2009 u/s 307 of the Indian Penal Code, 1860 registered against the Petitioner at police station Karol Bagh, Delhi and the proceedings, if any, emanating thereto are hereby quashed.

14. I find force in the submission of the Ld. APP for the State, but keeping in view the financial position of the Petitioner, I defer in imposing costs on the Petitioner.

15. Accordingly, Criminal M.C. No. 3184/2011 stands allowed.

16. Crl. M.A. 11324/2011 stands dismissed as infructuous.