

(2013) 07 DEL CK 0141
In the Delhi High Court
Case No : Criminal M.C. 654 of 2013

Pramod Kumar

APPELLANT

Vs

State of NCT of Delhi

RESPONDENT

Date of Decision : 08-07-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 308, 323, 325, 327, 34

Citation : (2013) 6 AD 85

Hon'ble Judges : S.P. Garg, J

Bench : Single Bench

Advocate : Pramod Kumar and Party in Person, for the Appellant; M.N. Dudeja, APP, Mr. R.S. Mishra, Advocate and Ranvir Singh, SI, PS Palam Village, for the Respondent

Final Decision : Dismissed

Judgement

S.P. Garg, J.—Present petition u/s 482 Cr.P.C. has been preferred by the petitioner-Pramod Kumar for quashing of FIR No. 73/2010 under Sections 308/ 325/ 342/ 34 IPC registered at Police Station Palam Village and charge dated 09.10.2012 under Sections 308/ 342/ 34 IPC. I have heard the parties and examined the record. Petitioner urged that he has been falsely implicated in FIR No. 73/2010 which was lodged as a counterblast to FIR No. 72/2010 registered in the said police station under Sections 452/ 323/ 327/ 34 IPC against the complainant and his associates on his complaint. He further argued that he had represented the complainant's tenants in various legal proceedings and was pressurized to withdraw from those cases. When he did not oblige, he was implicated in this case. He pointed out that the complainant has already settled/ compromised with the co-accused persons and the proceedings have been quashed by this Court in CrI. M.C. NO. 3982/2010 and CrI. M.A. 18910/2010 by an order dated 23.12.2010. Learned counsel for the complainant and learned APP argued that the charge-sheet has already been filed against the petitioner and charge has been framed. The petitioner did not opt for mediation and

criminal proceedings were not quashed qua him. The complainant sustained "grievous" injuries on head in the incident.

2. I have considered the submissions of the parties. Status report reveals that FIR No. 73/2010 under Sections 308/ 325/ 342/ 34 IPC was registered on 28.03.2010 on the statement of the complainant Radhika Parsad Tiwari. He specifically named Neeraj, Chhutkan, Renu, and Ranjyoti and the present petitioner to have entered into his room forcibly at 12 noon. He alleged that they all in furtherance of common intention inflicted injuries on his head. It was alleged that the present petitioner-Pramod Kumar had a knife. PCR van reached the spot and took Radhika Parsad Tiwari to Base Hospital, Delhi Cantt. The injuries on the head were opined "grievous". During the course of investigation, the co-accused persons settled the dispute with the complainant before Delhi High Court Mediation Centre and this Court quashed the criminal proceedings qua them. After investigation, a charge-sheet was filed against the petitioner in the Court and charge under Sections 308/ 342/ 34 IPC was framed vide detailed order dated 09.10.2012. It is disclosed that the complainant and an independent eye witness have already been examined in the said proceedings. Another case vide FIR No. 194/2010 was also registered under Sections 452/ 323/506/ 509/ 34 IPC on the complaint of complainant's mother-in-law against the petitioner. At this stage, the correctness or otherwise of the allegations in the FIR is not to be seen by the High Court and that will be seen at the trial. It has to be seen whether on a perusal of the FIR a prima facie offence is made out or not. The FIR in question prima facie discloses the commission of a cognizable offence under Sections 308/ 342/ 34 IPC against the petitioner. Mere settlement of the offence with co-accused persons leading to quashing of the FIR qua them does not dilute the offence (if any) committed by the petitioner. The matter requires adjudication after getting evidence. Allegations in the FIR cannot be brushed aside at this stage. The petitioner will be at liberty to address all these contentions on merits at relevant time during trial. Since there are specific allegations against the petitioner in the statement of the complainant lodged with the police and these are supported by medical evidence whereby he sustained head injuries "grievous" in nature, the proceedings pending before the Trial Court cannot be quashed. The petition lacks merits and is dismissed.