

(2011) 10 DEL CK 0176
In the Delhi High Court
Case No : Criminal M.C.3572 of 2011

R. Radhakrishanan and Others	Vs	APPELLANT
State NCT of Delhi and Another		RESPONDENT

Date of Decision : 31-10-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 148, 149, 308, 323, 34

Citation : (2011) 10 DEL CK 0176

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : B.L. Madhukar, for the Appellant; Ritu Gauba APP for State/ R-1. Mr. Rajesh Kumar, for R-2, for the Respondent

Final Decision : Disposed Off

Judgement

Suresh Kait, J.—Ld. Counsel for the petitioner submits that vide FIR no. 703 dated 30.09.1999, case u/s 342/323/354/148/149/308/34 IPC against the petitioners was registered at Police Station - Hari Nagar on the complaint of respondent no. 2 Zile Singh.

2. Further submits that respondent no. 2 / complainant has amicably settled all the issues qua the aforesaid FIR vide compromise deed dated 07.09.2011. The respondent no. 2 / complainant does not want to pursue the case further.

3. Respondent no. 2 / complainant Zile Singh present in the Court with his Counsel Mr. Rajesh Kumar. Ld. Counsel on instruction from respondent no. 2 / complainant submits that the matter has been compromised with the petitioners and therefore respondent no. 2 does not want to pursue the case further against them and if the FIR is quashed, he has no objection.

4. Ld. APP for the State has strongly opposed in quashing the FIR and submits that recently Division Bench of Hon'ble Supreme Court in case Gian Singh Vs. State of Punjab & Anr. in SLP (Crl.) No. 8989/2010 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 Vs, State & Ors. (2008) 16 SCC 1 to the larger Bench to determine the correctness of the three decisions.

5. Alternatively, she has prayed that if the court is inclined to quash the FIR, heavy cost be imposed on the petitioners.

6. Since, I have taken view in number of cases, keeping in view the Judgment in a case Nari Motiram Hira Vs. Avinash Balkrishnan & Anr. in CrI.W.P.No.995/2010 decided on 03.02.2011 whereby the Double Bench of Bombay High Court has quashed the FIR when the compoundable offences were there.

7. I am also of the view that till the larger bench of the Supreme Court has reversed or alter the decisions in cases B.S. Joshi and Others Vs. State of Haryana and Another, , Nikhil Merchant Vs. Central Bureau of Investigation and Another, and Manoj Sharma Vs, State & Ors. (2008) 16 SCC 1, these Judgments still hold the field.

8. Respondent no. 2 is not interested to pursue the matter as amicably the settled the issue. Respondent no. 2 is a driver in a Tihar Jail. Petitioners are also working as Constable in Tihar Jail except Petitioner no. 6, K.V. Radhakrishnan, who has recently retired as Deputy Commandant from Tihar.

9. In the facts and circumstances and in the interest of justice, I quash the present FIR with emanating proceedings thereto. Since, I found force in the submission of Ld. APP for State that Govt. machinery has been used and precious time of the Court has been consumed, therefore while quashing the FIR I impose a cost of Rs.5,000/- each to petitioner no. 1 to 5, who were working as constable in Tihar Jail and Rs.10,000/- on petitioner no. 6, though he is retired, but at the relevant time he was posted as Deputy Commandant at Tihar Jail.

10. The cost shall be paid within 2 weeks from today. Proof of the same shall be placed on record. The petitioners have come forward and wish to donate the same amount for some welfare purposes. Therefore, I direct them to pay the cost in favour of welfare fund for children and destitute women at Nirmal Chhaya, Tihar Jail Complex, New Delhi.

11. CrI.M.C. 3572/2011 is allowed on the above terms.

12. Since CrI.M.C. 3572/2011 is allowed, CrI. M.A. 12691/2011 become infructuous and disposed of as such.

13. Dasti.