
(2013) 01 DEL CK 0122
In the Delhi High Court
Case No : Criminal M.C. 9 of 2013

Rakesh and Others

APPELLANT

Vs

State (NCT of Delhi)

RESPONDENT

Date of Decision : 04-01-2013

Acts Referred:

Citation : (2013) 1 AD 776 : (2013) 1 JCC 609

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

Bench : Single Bench

Advocate : V.S. Rana, for P-1 and Mr. Vijender Kharb, for P-2, for the Appellant;
Rajdipa Behura, APP for the State, for the Respondent

Final Decision : Allowed

Judgement

G.P. Mittal, J.

CRL. MA. 57/2013 (Exemption)

Exemption allowed, subject to all just exceptions.

The Application is allowed.

CRL. M.C. 9/2013 and CRL. MA. 56/2013 (stay)

1. 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. 386/2010, u/s 420/468/471/120B IPC, Police Station Najafgarh and consequential proceedings arising out of the same. FIR No. 386/2010 was registered on the basis of directions issued by the Metropolitan Magistrate u/s 156(3) of the Cr.P.C. The Complainant (Petitioner No. 2) had purchased certain land measuring 3 Bighas and 4 Biswas, situated in the revenue estate of Village Dichaon Kalan, Delhi-5 from Petitioner No. 1. A Sale Deed dated 02.08.2006 was executed in favour of the earlier said Petitioner. Subsequently, it transpired that a small portion of land had already been acquired by the Govt. and the compensation paid to Petitioner No. 1. The Complainant (Petitioner No. 2) therefore, approached the Court of

Metropolitan Magistrate on the ground that an offence of criminal breach of trust, cheating, forgery, etc. etc. was committed by the Petitioner No. 1. A Civil Suit for specific performance was also filed by Petitioner No. 2 against Petitioner No. 1 being Suit No. 32 of 2011 (in the Court of Ms. Mamta Tayal, ADJ, Dwarka, New Delhi). The dispute between the parties with regard to acquisition of the small portion of land was settled by executing a fresh Sale Deed in favour of Petitioner No. 2 by Petitioner No. 1. A joint Application under Order 23 Rule 3 CPC was moved by the Petitioners No. 1 and 2 before the learned ASJ and a compromise was recorded on 04.04.2012. A Compromise Deed Ex.C-1 and the Affidavit of the parties Ex.C-3 to C-4 were placed on record and the suit was disposed of as compromised.

2. It is stated by the Petitioners, particularly, Petitioner No. 2 that primarily the dispute between the parties was of a civil nature and that they have settled their dispute amicably without any pressure, force and coercion. It is stated that Petitioner No. 2 does not want to proceed further with the FIR and the criminal proceedings emanating there from.

3. Ms. Rajdipa Behura, APP for the State has gone through the FIR and admits the averments about the dispute between the parties.

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. 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.

7. The Petition is accordingly allowed and FIR No. 386/2010, u/s 420/468/471/120B IPC, Police Station Najafgarh and the proceedings arising there from as against the Petitioners are quashed, subject to Petitioners paying a sum of Rs. 10,000/- each, that is, Rs. 30,000/- in all with the "Army Central Welfare Fund", at Director, Accounts Section, Room No. 281B, Ceremonial and Welfare Directorate, Adjutant General's Branch, South Block, Integrated HQ of MoD (Army), New Delhi within four weeks and file a receipt with the Registrar General of this Court within four weeks. Pending Application also stands disposed of.