

(2012) 01 DEL CK 0100

In the Delhi High Court

Case No : Criminal M.C. No. 10 of 2012

Sanjay Kumar Behera and Others

APPELLANT

Vs

State NCT of Delhi and Another

RESPONDENT

Date of Decision : 05-01-2012

Acts Referred:

Citation : (2012) 01 DEL CK 0100

Hon'ble Judges : Sudershan Kumar Misra, J

Bench : Single Bench

Advocate : Vivek Singh, for the Appellant; Sunil Sharma, APP for State, Mr. Devinder Singh Khatana, Advocate for Respondent No. 2 and Respondent No. 2 in person, for the Respondent

Judgement

Sudershan Kumar Misra, J.—This petition has been filed u/s 482 of the Code of Criminal Procedure praying that the FIR bearing No. 573/2000 relating to Police Station Sarojini Nagar, under Sections 52A/63/68A of the Copyright Act along with charge sheet dated 2.6.2001, be quashed on the ground that the Petitioners, who are the accused in the matter, have settled their disputes with the complainant/Respondent No. 2, Shri Satish Kapoor. A copy of the settlement agreement dated 30.09.2011 entered into between the parties enumerating, inter alia, that the complainant, Shri Satish Kapoor, has, "no claim whatsoever against the second party in respect of the matter of controversy ...". It is also stated that the accused/Petitioners herein have no claim against Mr. Satish Kapoor.

2. It is pointed out by the learned Counsel appearing for the State that Section 63 of the Copyright Act contemplates imprisonment for three years along with fine. It also envisages a minimum sentence of six months extendable upto three years. It is also a non-compoundable offence. He has also pointed out that a charge sheet in this matter was filed in June 2001 and the matter has been pending trial for the last 10 years.

3. Both counsel for the Petitioner as also for Respondent No. 2, who are

approbating this settlement, jointly pray for grant of the relief sought in the petition. They rely upon three decisions of this Court, being Sanjay Singh vs. The State (NCT) of Delhi and Anr. 2008(1) JCC 650; Mukesh Bansal vs. State and Anr. 2009(2) JCC 898, and Rishiraj vs. State 2009(1) JCC 265.

4. The case of Sanjay Singh (supra) dealt with a matter u/s 307 IPC read with Section 27, 54, 57 of the Arms Act, where the charge-sheet had also been filed. Charges in the matter were also framed and the matter was fixed for prosecution evidence. At that stage, the complainant did not want to proceed with the complaint. Both the parties in that case were also found to be in the same business. The court proceeded to allow the application and quashed the proceedings since in its view, in the absence of support from the complainant in the case, there is hardly any chance of success of the prosecution and therefore, no useful purpose would be served by continuing with the criminal proceedings.

5. In this case also, the matter is stated to be posted for the prosecution evidence. Although it is true that in the matter of Sanjay Singh (supra), none of the provisions under which the prosecution was launched contemplated a minimum sentence, however, the ratio of the decision is that the proceedings be quashed not because there is no minimum sentence prescribed under any of the sections in terms of which the prosecution was launched, but because no useful purpose would be served in continuing with criminal proceedings where there is hardly any chance of success of the prosecution once the complainant himself does not wish to support the prosecution.

6. Similarly in case of Mukesh Bansal (supra), the matter was brought before this Court pursuant to a settlement between the parties. The prosecution was quashed on the ground that no useful purpose would be achieved by allowing the prosecution to continue. Even in the third case titled Rishiraj vs. State (supra), the same view has been taken.

7. The statement of the complainant, Shri Satish Kapoor, who is arrayed as Respondent No. 2 in the petition, has also been recorded separately. He is identified by his counsel Shri Devinder Singh Khatana.

8. Mr. Sant Kumar Singla, Petitioner No. 2, has also filed an affidavit approbating the petition in the terms of the agreement. The Petitioners Mr. Sanjay Kumar Behera, Mr. Sant Kumar Singla and Mr. Arjun Agarwal, are all present in person in Court today. They are identified by their counsel, Shri Vivek Singh. The copies of documents identifying the parties have also been annexed to the petition.

9. Both counsel for the Petitioners as well as counsel for Respondent No. 2 have handed over their Vakalatnamas in Court today and the same are taken on record.

10. Counsel for the Petitioners also states, on instructions received from his clients, that his clients shall remain bound by the terms of the settlement.

11. Counsel for Respondent No. 2 approbates this statement. Counsel for the

Petitioner also states that his clients have settled all their disputes with the complainant and that they have no claims in this regard against the complainant.

12. Looking to the ratio of the aforesaid decisions, and keeping in mind the statement of the complainant recorded in court today, I am of the view that no useful purpose would be served in proceeding with the trial in this case.

13. I am mindful of the fact as pointed out by learned Counsel for the State, that prosecution has been pending before the Trial Court for more than 10 years, and that the State machinery has been engaged in the matter. Under the circumstances, the FIR No. 573/2000 registered at P.S. Sarojini Nagar under Sections 52A/63/68A of the Copyright Act and the charge sheet dated 2.6.2001 and all consequent proceedings pending in the Trial Court are quashed, subject to payment of Rs. 10,000/- by each Petitioner as well as the second Respondent, to the Bar Council of Delhi Indigent and Disabled Lawyers Account, within one week from today.

14. The petition is disposed of in terms of the settlement with the above directions.