
(2002) 04 DEL CK 0046

In the Delhi High Court

Case No : Criminal Writ Petition No. 920 of 2001

Shri Rajesh Parjapat

APPELLANT

Vs

The State and Another

RESPONDENT

Date of Decision : 17-04-2002

Acts Referred:

Penal Code, 1860 (IPC) — Section 156(3), 34, 420

Citation : (2002) 4 AD 803 : (2002) 97 DLT 993

Hon'ble Judges : Vinod Sagar Aggarwal, J; B.A. Khan, J

Bench : Division Bench

Advocate : R.N. Mittal and Puneet Mittal, for the Appellant; Akshay Bipin and Rakesh Sherawat, for the Respondent

Judgement

Khan, (J)

1. Petitioner is seeking quashing of FIR No. 127/01 u/s 420/34 IPC registered at PS Srinivas Puri and Complaint Case No. 137/1/98 titled "Start Choudhary v. Rajesh Parjapat" pending before MM, New Delhi.

2. Both FIR and complaint were lodged against petitioner by one Start Choudhary alleging sale of stolen shares by him for which he claimed return of an amount of about Rs. 1.62 lacs.

3. Petitioner's case is that Choudhary had lodged the complaint against him first on 27.7.1997 with SHO concerned but no case was made out and no FIR registered by police. Later he filed a complaint u/s 156(3) in which MM sought report by order dated 16.3.1998 which was submitted making out no case but Ld. Magistrate had still proceeded on it and allowed complainant to lead evidence. While this complaint was pending trial, respondent/complainant allegedly hobnobbed with SI Sunil Bhardwaj, in charge of PS Sunlight Colony and lodged a report with him on the same subject matter and complained that Magistrate was taking time in deciding his earlier complaint and upon which impugned FIR No. 127/01 was registered against him.

4. It was submitted by L/C for petitioner Mr. Mittal that when respondent's complaint on the subject matter was already pending trial before the Magistrate, no FIR was could be registered on his subsequent report covering the same subject matter and registration of FIR was, Therefore, bad in law and a malafide exercise of power. He referred to two Supreme Court judgments in K. Karunakaran v. State of Kerala 2000 (2) RCR 454 and T.T. Anthony v. State of Kerala 2001 (5) AD SC 373.

5. While this matter was under consideration, L/C for R-2 Mr. Sherawat made a statement at bar that R-2 would have no objection if the FIR was quashed and if he was allowed to pursue his complaint his Case No. 137/1/98 before the Magistrate on the subject matter. This puts an end to the controversy leading to the disposal of the petition by the following order:-

1. FIR No. 127/01 and the consequential proceedings pending before Metropolitan Magistrate is hereby quashed leaving R-2 free to pursue complaint case No. 137/1/98 before the Magistrate.

2. Petitioner withdraws his relief for quashing of complaint case No. 137/1/98 for taking appropriate remedy under law. He is permitted to do so.

3. Ld. Magistrate seized of complaint case No. 137/1/98 is directed to expedite its disposal as far as practicable within six months from receipt of this order.