

(2012) 03 DEL CK 0448

Delhi High Court

Case No: Criminal M. C. No. 830 of 2012

Shah Alam and Ors

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision: March 6, 2012

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 320
- Penal Code, 1860 (IPC) - Section 307, 324, 34, 452

Hon'ble Judges: Suresh Kait, J

Bench: Single Bench

Advocate: Rajuddin Khan, for the Appellant; Naveen Sharma, App. Respondent No. 2 in Person. S.I. Kuldeep Singh, P.S. Uttam Nagar in Person, for the Respondent

Judgement

Suresh Kait, J.

Crl. M.A. Nos. 2915-16/2012

Exemption is allowed subject to just exceptions.

Criminal M.As. stand disposed of.

Crl. M.C. No. 830/2012

1. Notice issued. Mr. Naveen Sharma, learned APP accepts notice on behalf of State.
2. Respondent No. 2 is present in person.
3. With the consent of the parties, the instant petition is taken up final disposal.
4. Learned counsel for petitioners submits that FIR No. 70/2012 u/s 307/34, dated 13.02.12 was registered at P.S. Uttam Nagar against the petitioners on the complaint of respondent No. 2.

5. It is further submitted that the petitioners and respondent No. 2 are living in the same colony, i.e, J.J. Colony, Hastal Road, Uttam Nagar, New Delhi. Therefore, with the intervention of the community members and common friends, the said matter has been settled vide compromise deed dated 22.02.12. It is further submitted that respondent No. 2 is no more interested in pursuing the case against the petitioners. Therefore, the aforesaid FIR No. 70/2012 registered at P.S. Uttam Nagar may be quashed.

6. Respondent No. 2 & 3 are personally present in the Court. S.I. Kuldeep Singh, I.O. of the case, has identified respondent No. 2 & 3.

7. Both of them jointly stated that they have amicably compromised the matter and no issues remain against the petitioners qua the aforesaid said FIR. Therefore, they have no objection if the aforesaid FIR is quashed.

8. Learned APP, on the other hand, submits that the investigation is going on and accused Shah Alam has been arrested and he is in judicial custody since 13.02.12.

9. Learned APP has further submitted that respondent No. 3 received injuries and the result of the same is awaited. He submits that if this Court is inclined to quash the FIR, heavy costs may be imposed upon the petitioners.

10. Learned APP for State has referred the case of Hon"ble Supreme Court in Gian Singh Vs. State of Punjab & Anr. in SLP (Crl.) No. 8989/2010 wherein the Division Bench of the Supreme Court 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 for re-consideration whether the abovesaid three decisions were decided correctly or not.

11. Previously, I have taken the view on the basis of the judgment of the Division Bench of Mumbai High Court in Nari Motiram Hira Vs. Avinash Balkrishnan & Anr. in Crl.W.P.No. 995/2010 decided on 03.02.2011 whereby the Division Bench of Mumbai High Court has permitted for compounding of the offences u/s 452/324 of Indian Penal Code which were of "non-compoundable" category as per Section 320 Cr. P.C. and the FIR No. 50/2010 registered at Amboli Police Station, Andheri dated 06.02.2010, was quashed. Therefore, I am also of the considered opinion that unless and until, the decisions which have been referred above, are set aside or altered, the same decisions are the precedent and have binding effect.

12. Keeping the aforesaid discussion into view, in the interest of justice, I hereby quash the FIR No. 70/2012 registered at P.S. Uttam Nagar against the petitioners with all criminal proceedings emanating therefrom.

13. However, keeping in view the financial position of the petitioners, I refrain from imposing costs upon them.

14. In view of above, Criminal M.C.No. 830/2012 stands disposed of. Dasti.