

Daulat Ram Gupta Vs. State and anr

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Court : Delhi

Decided On : Aug-19-2013

Judge : S. P. Garg

Appellant : Daulat Ram Gupta

Respondent : State and anr

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI DECIDED ON :

19. h August, 2013 + CRL.M.C. 1480/2013 & CrI.M.A.No.10615/2013 (Delay)
DAULAT RAM GUPTA Petitioner Through : Mr.V.M.Tripathi with Mr.pramod
Kumar, Advocates. versus STATE & ANR Respondents Through :
Mr.M.N.Dudeja, APP for the State. CORAM: MR. JUSTICE S.P.GARG
S.P.GARG, J.

(ORAL) 1. In the present petition under Section 482 Cr.P.C. the petitioner challenges order dated 28.1.2011 of learned Additional Sessions Judge by which the revision petition filed by the respondent No.2 against the order dated 28.10.2010 was accepted and she was discharged of all the charges.

2. I have heard the learned counsel for the petitioner and have examined the record. Counsel urged that the order cannot be sustained as at the time of consideration of charge, the Trial Court is required to take prima facie view and cannot scrutinize the prosecution case minutely on merits. There was enough

evidence on record in the statement of the complainant and the witnesses examined by him to proceed against the respondents for committing offences for which they were chargedsheeted.

3. It is a matter of record that the charge-sheet against the respondents was filed in 2006 under Sections 379/406/34 IPC. On 28.10.2010 learned ACMM ordered to frame charge under Section 406/411 IPC and discharged the respondent No.2 under Section 379 IPC. The respondent No.2 went in revision and vide order dated 28.01.2010 the Revisional Court accepted it and discharged her. It is relevant to note that the State has not challenged the discharge order. The complainant preferred revision No.228/2011 impugning the orders of learned ACMM and ASJ and was dismissed as withdrawn with liberty to file appropriate petition on 11.07.2011. It is further a matter of record that the present petition has been preferred on 16.04.2013 after an inordinate delay of 19 months. Vide order dated 16.04.2013, this Court directed the petitioner to satisfy with regard to the maintainability of the petition on the ground of unexplained delay and laches. The petitioner has not given any plausible explanation for not filing the proceedings in a reasonable time. In the absence of any explanation of delay, I find no sound reasons to condone the inordinate delay.

4. On merits, I find no illegality in the impugned order. The petitioner did not challenge discharge of the respondent No.2 under Section 379 IPC. Both the petitioner and respondent No.2 were husband and wife and lived together at the matrimonial home since 1986 after their marriage. The dispute arose between them in 2004 when various complaints were lodged against each other. The petitioner is also facing proceedings under Section 498A IPC. Respondent Nos. 3 to 8 relatives of respondent No.2 It is the admitted case of the petitioner that he kept the valuable articles or documents with his wife for proper custody/security. He further admitted that the almirah where the articles were kept was under the joint use of his wife with him. Apparently, there was no entrustment of any specific property with respondent No.2 to attract Section 405/406 IPC. No substantial alleged stolen jewellery was recovered from the possession of the accused/respondent No.2 The property documents were recovered from the house which was in common use of the parties. The Revisional Court was right to

observe that the relations between the parties were of husband and wife and it could not be said that the respondent No.2 dishonestly received or retained the titled deeds. The only motive to file the present petition seems to drag respondent No.2 and her close relations in a futile litigation.

5. The petition is unmerited and is dismissed. Crl.M.A.No.10615/2013 also stands disposed of. (S.P.GARG) JUDGE AUGUST 19 2013 sa

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