

Sewa Ram and ors Vs. State and anr

Sewa Ram and ors Vs. State and anr

SooperKanoon Citation : sooperkanoon.com/1164121

Court : Delhi

Decided On : Sep-10-2014

Judge : Sudershan Kumar Misra

Appellant : Sewa Ram and ors

Respondent : State and anr

Judgement :

\$~23 * IN THE HIGH COURT OF DELHI AT NEW DELHI + CRL.M.C. 4123/2014 & Crl.M.A. No.14149/2014 SEWA RAM & ORS Petitioners Through Mr. J.

K. Singhal, Advocate. versus STATE & ANR Through Respondents Mr. Amit Ahlawat, Additional Public Prosecutor. CORAM: HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA % SUDERSHAN KUMAR MISRA, J.(Oral) 1. This petition under Section 482 Cr.P.C. seeks quashing of FIR No.0657/2014, registered at police station Narela under Section 420 IPC, and all proceedings emanating therefrom, on the ground that the matter has been settled between the parties. The aforesaid FIR came to be lodged against the petitioners at the instance of the complainant Pradeep Kumar Mangal, who is arrayed as respondent No.2 herein, making serious allegations of cheating and forgery, along with conspiracy including, inter alia, manipulation and tampering of records of the Agricultural Produce Market Committee (APMC), Narela, Delhi with regard to the auctions that had been carried out in connivance with the auctioneer Rohtas Bhardwaj, who is also arrayed as petitioner No.4 before this Court. It is alleged

that in this way, the petitioners have sought to avoid liability to the tune of Rs.31,19,446/-, which was the auction price that was to be paid for Paddy purchased in the said auction by petitioners No.1, 2 and 3.

2. It is alleged that, with the connivance of petitioner No.4, the other petitioners manipulated the records to show that the auction in question had, in fact, been cancelled.

3. The parties are stated to have executed a Compromise Deed amongst themselves on 31.07.2014. The Compromise Deed has also been annexed to this petition. It records that the matter has been amicably settled between the complainant and the accused / petitioners, and further that the material in question, i.e., Paddy, has been received back by the complainant under the invoices of petitioners 1 and 2; and that the complainant is satisfied with this arrangement.

4. Issue notice. Mr. Amit Ahlawat, Additional Public Prosecutor for the State, accepts notice. The complainant, who is arrayed as respondent No.2, is present in person.

5. The Investigating Officer Sub Inspector Deepak identifies the parties. The matter is stated to be under investigation.

6. Counsel for the petitioner further submits that the whole thing has occurred due a misunderstanding, and that the complainant as well as the petitioners 1 and 2 are respectable traders operating in the APMC Mandi holding valid licenses; and further, on instructions from the petitioners, who are present in Court today, submits that the petitioners are also willing to pay any reasonable costs that may be directed by this Court keeping in mind the overall circumstances of the matter.

7. Counsel for the State submits that there is an element of seriousness in the nature of the complaint, which involves open auction of Paddy worth more than Rs.31 lakhs, and where the involvement and connivance of auctioneer is also alleged apart from manipulation of official records; and looking to the fact that the complainant himself has settled the matter and is no longer interested in

supporting the matter, which is at the stage of investigation; no useful purpose will be served in continuing with these proceedings. However, it would be appropriate if the petitioners are put to heavy costs.

8. Consequently, and looking to the decisions of the Supreme Court in *Gian Singh v. State of Punjab*, (2012) 10 SCC303 which has referred to a number of matters for the proposition that even a non-compoundable offence can also be quashed on the ground of a settlement agreement between the offender and the victim, if the circumstances so warrant; by observing as under:

58.However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated.

And also in view of the fact the offence under Section 420 IPC, under which, the present FIR has been registered, is compoundable with the permission of the court, and also with the consent of the person cheated; I consider it appropriate, on an overall consideration of the matter, to permit the compounding, subject to the petitioners depositing a sum of Rs.3 lakhs with the Delhi High Court Bar Association Lawyers Social Security and Welfare Fund within two weeks from today.

9. Counsel for the petitioners states that the said amount shall be deposited within the time granted. Let the same be done. Proof of payment of costs be filed in the Registry of this Court within one week thereafter, with a copy to the Investigating Officer.

10. Under the circumstances, the petition is allowed, and FIR No.657/2014, registered at police station Narela under Section 420 IPC, and all proceedings emanating therefrom, are hereby quashed.

11. The petition, along with Crl.M.A. No.14149/2014, stands disposed off.
SUDERSHAN KUMAR MISRA Judge SEPTEMBER10 2014 dr

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com