

Shri Kisna & Ors. Vs.state & Ors.

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Court : Delhi

Decided On : Feb-07-2019

Appellant : Shri Kisna & Ors.

Respondent : State & Ors.

Judgement :

* + IN THE HIGH COURT OF DELHI AT NEW DELHI Date of Order: February 07, 2019 CRL.M.C. 695/2019 SHRI KISHNA & ORS.

... Petitioner

s Through: Mr. Abhishek Kaushik & Ms. Neha Sharma, Advocates Versus STATE & Ors. Through: Mr.

... RESPONDENTS

Izhar Ahmed, Additional Public Prosecutor for respondent No.1-State with ASI Rajindera & HC Anil Kumar Mr. Pandey, Advocate with respondent No 3 in person. Sushil Kumar CORAM: HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

(ORAL) Crl.M.A. 2853/2019 For the reasons stated in the application, delay of 30 days in re- filing the accompanying petition is condoned. Application is disposed of. Crl.M.A. 2851/2019 Allowed subject to all just exceptions. CRL.M.C. 695/2019 & Crl.M.A. 2852/2019 Quashing of FIR No.3/2018, under Sections 323/3 of IPC, CRL.M.C. 695/2019 Page 1 of 4 registered at police station Bhalswa Dairy,

Delhi is sought on the ground that the misunderstanding which led to registration of the FIR in question now stands cleared between the parties. Ms. Izhar Ahmed, learned Additional Public Prosecutor for respondent-State accepts notice and Mr. Sushil Kumar Pandey, Advocate, accepts notice on behalf of respondents. Learned Additional Public Prosecutor for respondentState submits that respondents No.2 & 4 are minors and they are represented through their guardian/father- respondent No.3, who is present in the Court, and is identified to be the complainant/first-informant of the FIR in question by HC Anil Kumar on the basis of identity proof produced by him. Respondent No.3, present in the Court, submits that the misunderstanding between the parties has been now cleared and so, the proceedings arising out of the FIR in question be brought to an end. Supreme Court in Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Vs. State of Gujarat (2017) 9 SCC641has reiterated the parameters for exercising inherent jurisdiction under Section 482 Cr.P.C. for quashing of FIR / criminal complaint, which are as under:-

"16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:

16. 1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court. 16.2. The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an C.R.L.M.C. 695/2019 Page 2 of 4 offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non- compoundable. 16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power. 16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the

ends of justice, or (ii) to prevent an abuse of the process of any court. 16.5. The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated. 16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences. 16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned. 16.8. Criminal cases involving offences which arise commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute. 16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, CRL.M.C. 695/2019 Page 3 of 4 the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and financial and economic well-being of 16.10. There is yet an exception to the principle set out in propositions 16.8. and 16.9. above. Economic offences involving the the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance. Upon hearing and on perusal of the FIR of this Case, I find that continuance of proceedings arising out of the FIR in question would be an exercise in futility as the misunderstanding, which led to registration of the FIR, now stands cleared between the parties. Accordingly, FIR No.3/2018, under Sections 323/3

of IPC, registered at police station Bhalswa Dairy, Delhi and the proceedings emanating therefrom are hereby quashed. This petition and application are accordingly disposed of. (SUNIL GAUR) JUDGE FEBRAURY07 2019 r CRL.M.C. 695/2019 Page 4 of 4

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