

Bhim Singh Etc. Vs. Krishan Kumar and ors.

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Court : Delhi

Decided On : Feb-04-2005

Reported in : 118(2005)DLT730

Judge : Manju Goel, J.

Acts : Code of Criminal Procedure (CrPC) - Sections 379, 401 and 482; Indian Penal Code (IPC) - Sections 34, 308, 323, 448 , 452 and 506

Appeal No. : CrI. M.C. No. 218/2004

Appellant : Bhim Singh Etc.

Respondent : Krishan Kumar and ors.

Advocate for Pet/Ap. : L.B.Rai, Adv; V.K. Malik, Adv

Disposition : Petition dismissed

Judgement :

Manju Goel, J.

1. This petition u/s 482 of Cr.P.C. seeks quashing of criminal proceedings in the complaint case u/s 308/323/448/452/506/34 IPC titled Bhim Singh v. Krishan Kumar complaint case No. 206/01 of the Court of Ms. Raj Rani Mittal, Metropolitan Magistrate. During hearing, it became clear that the petitioner's main grievance of

the petitioner was the order of the learned Metropolitan Magistrate dated 6.11.2001 whereby charge u/s 323/448/452/506 of Indian Penal Code has been ordered to be framed. The present petition is therefore considered u/s 379 and 401 of Cr.P.C. as a revision petition.

2. It is not disputed by the learned counsel for the petitioner that as per the complaint offence is u/s 323/448/452/506/34 IPC have been made out. The complainant's witnesses have also deposed to this effect. The only ground for challenging the order on charge is that the complainant herself had gone to the police on the date of the incident and had made a report on which a DD was registered and that this DD contradicts the case of the complainant. The copies of the statements of witnesses is produced in court. The DD has been proved by CW-5 constable Bhagwan Sahay and the copy of the same is exhibit DA. However this document has very little evidentiary value as can be seen from the cross-examination this is as under :-

'Ex DA is not signed by any officer of the Police Station. It was not written in my presence. I do not know who has written it. The seal is also not visible. The seal is decipherable which is of P.S. Narela. The seal does not bear any signature. The date on the seal is not clearly readable. The contents of Ex DA are correct. It is not incorrect to suggest that I am deposing falsely and it is also incorrect to suggest the records are false.'

3. Since the original record has been destroyed, the witnesses could not have said that the contents of the documents are correct. He had himself not written it and was not a witness to the alleged incident. The document itself bears a seal which is not decipherable although the word PS Narela can be read. It does not carry anybody's signature. Be that as it may framing of charge does not depend upon evidence produced during trial. Since the formal FIR does not make out a case, a charge was rightly framed.

4. In view of this, the opposition to the order on charge is of no strength. I find no force in the petition and the same is accordingly dismissed.

