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Vinod Bansal and ors. Vs. State

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Court : Delhi

Decided On : Jul-31-1991

Reported in : 45(1991)DLT57

Judge : R.L. Gupta, J.

Acts : Indian Penal Code (IPC), 1860 - Sections 448; Code of Criminal Procedure (CrPC) , 1973 - Sections 482

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 206 of 1990

Appellant : Vinod Bansal and ors.

Respondent : State

Advocate for Pet/Ap. : D.C. Mathur,; Rebecca Mamman and; Kawal Nain, Advs

Judgement :

R.L. Gupta, J.

(1) This petition under Section 482 of the Code of Criminal Procedure has been filed by the petitioners for quashing an order dated 21.11.89 by which the learned Metropolitan Magistrate directed the framing of charge against the petitioners and others under Section 448 and Section 380 read with Section 120B of Indian Penal Code in a case based on Fir No. 79/82 pertaining to Police Station Connaught Place, New Delhi.

(2) The brief facts leading to the prosecution of the petitioners and others are that there was a proposal made to Vinod Bansal, petitioner No. 1 on 20.11.81 by one Rajinder Sahney, property dealer, for sale of a show room bearing No. 10A, Scindia House, New Delhi, which was owned by M/s. Atma Ram Properties P. Ltd. The property dealer took petitioners 1 and 3 to the aforesaid premises on 21.11.81 and a sale price of Rs. 14 lacs was agreed between the parties for purchase of that premises. On 24.11.81, petitioner No. 1 paid Rs. 3 lacs to the owners by a cheque pending final sale. On 28.11.81 a further sum of Rs. 7 lacs was paid by means of a cheque. On 1.12.81, an agreement to sell was executed and at that time a further sum of Rs. 3,95,000.00 was paid. The owners delivered vacant possession of the premises to the petitioners. On 14.1.82 M/s. Madhya Pradesh State Industries Corporation (MPSIC for short) lodged the aforesaid Fir with the police alleging that they were actually tenants of the aforesaid premises and that they have been dispossessed from the same. On 16.1.82, the purchaser instituted a suit for permanent injunction in the Court of Senior Sub-Judge, Delhi against MPSIC. There were also proceedings under Sections 145 and 146 of the Code of Criminal Procedure between the parties which led to the sealing of the premises on 17.1.82. After investigation in the aforesaid Fir, charge sheet was filed on 13.1.83 under Sections 448, 420, 380 read with Section 120B Indian Penal Code against seven persons including the owner, the purchasers, two employees of the owner and two employees of MPSIC. The complainant, that is, Mpsic also instituted suit No. 147/82 for possession under Section 6 of the Specific Relief Act on 20.3.1982, along with an application for temporary injunction also. On 13.12.86 the premises was ordered to be desealed by the learned District Judge and possession was ordered to be restored to the petitioners who were partners of M/s. Young Builders P. Ltd. However, possession could only be delivered in pursuance of the aforesaid order on 4.4.87 and consequently the suit filed by Mpsic became infructuous. Thereafter on 13.8.88, the complainant Mpsic moved an application in the Court of learned District Judge stating that parties have compromised the matter and a sum of Rs. 8 lacs was paid by the present petitioners to the complainant as compromise money for termination of tenancy and damages. In these circumstances, the learned District Judge dismissed the suit as withdrawn on the basis of compromise entered into between the parties.

The complainant thereafter moved an application in the Court of Metropolitan Magistrate, New Delhi seeking to drop the proceedings against the petitioners as they had compounded the offence punishable under Section 448 IPC. That application was dismissed and the impugned order of framing of the charges was passed. It is in these circumstances that this petition has been moved.

(3) I have heard learned Counsel for the petitioners as also the State and have given my careful consideration to all the aspects of the matter. It will be seen that so far as the offence under Section 448 Indian Penal Code is concerned, it is compoundable without seeking any permission from the Court. So far as the charge under Section 380 is concerned, no doubt it seems to be made out because the property of the complainant lying in the aforesaid premises was ultimately recovered from the godown of the petitioners. But in view of the fact that the main offence of trespass allegedly committed by the petitioners has been compounded by the complainant with them on receipt of substantial amount, I am of the view that even the prosecution of the petitioners under Section 380 Ipc may not be allowed to continue. In these citcumstances, I feel that the charge against the petitioners under Section 380 Indian Penal Code should also be quashed. thereforee, the prosecution of the petitioners by the complainant under Section 380 read with Section 120B Indian Penal Code is hereby quashed.

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