

Narender Dev Relan Vs. State and ors.

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SooperKanoon Citation : sooperkanoon.com/700034

Court : Delhi

Decided On : Sep-09-2004

Reported in : 114(2004)DLT94; 2004(77)DRJ113

Judge : R.C. Chopra, J.

Acts : Code of Criminal Procedure (CrPC) - Sections 482; Indian Penal Code (IPC) - Sections 120B, 406 and 420; [Constitution of India](#) - Article 226

Appeal No. : WP (Crl.) No. 832/2002

Appellant : Narender Dev Relan

Respondent : State and ors.

Advocate for Def. : Sunil K. Kapoor, Adv. for respondent No. 1 and ;D. Moitra for respondents No. 2 to 5

Advocate for Pet/Ap. : K.T.S. Tulsi, Sr. Adv. and; S.S. Jauhar and; Prabhjit Jauha

Disposition : Petition dismissed

Judgement :

R.C. Chopra, J.

1. This Writ Petition under Article 226 of the [Constitution of India](#) read with Section 482 of the Code of Criminal Procedure is for quashing FIR No. 477 registered at

P.S. Connaught Place, New Delhi under Section 406/420/120B IPC and the proceedings arising there from.

2. The facts relevant for the disposal of this Writ Petition, briefly stated, are that the petitioner was carrying on the business of stock and share brokering under the name and style of M/s. R.K. Relan & Company, a partnership firm, which was a member of Delhi Stock Exchange. On 7.8.1998, this firm informed Delhi Stock Exchange that it was being dissolved w.e.f. 15.8.1998. On the said date, this firm was dissolved. The clients were informed about the dissolution of the firm. Delhi Stock Exchange issued notices to the creditors to submit proof of their outstanding dues/claims in pursuance of which respondents No. 2 to 5 also furnished their claims, which were verified by a Default Committee of Delhi Stock Exchange headed by Mr. Justice N.N. Goswami, a retired Judge of Delhi High Court. While the Committee appointed by Delhi Stock Exchange was looking into the claims the respondent No. 2 made a complaint to Delhi State Consumers Disputes Redressal Commission and also to DCP (Crime), Economic Offences Wing, New Delhi.

3. In March, 2001, respondents No. 2 to 5 filed a writ before the High Court which was registered as WP (Crl.) No. 316/2001. Vide orders dated 31.8.2001, the High Court directed DCP (Crime) to look into the matter and take action in accordance with law. In pursuance of the said orders, the aforesaid FIR was registered on 15.9.2001. On 27.9.2001, the petitioner appeared before the High Court. After hearing him, it was ordered that DCP (Crime) shall look into the contentions being raised by the petitioner. On 9.11.2001, the claims of the respondents No. 2 to 5 were settled by Delhi Stock Exchange and on 24.5.2002, they accepted payments after giving undertakings.

4. According to the petitioner, the disputes between the petitioner and respondents No. 2 to 5 were purely civil in nature and no offence was made out and as such, the process of criminal justice was being misused for blackmailing the petitioner, who was aged about 72 years. It was also pleaded that the facts and circumstances of the case did not disclose commission of any offence and as such, the FIR as well as the proceedings arising there from were liable to be quashed.

5. The respondent No. 1 filed a status report giving the details of the FIR and the allegations being leveled against the petitioner. It was submitted that as per investigations, it had been established that 5000 shares of M/s.Silver Line Industries in the name of respondents were sold through the firm of the petitioner and 100 shares of Satyam Computers, 100 shares of State Bank of India and 100 shares of HCL Infosys were purchased through them but neither the sale proceeds of Silver Line shares was paid to the complainant nor the shares of Satyam Computers , State Bank of India and HCL Infosys were delivered to them. It was clarified that though these shares along with sale proceeds of about 4.9 lacs had been returned to the complainant after the registration of the case but the complainant was insisting upon making good losses which were estimated at Rs.84 lacs and hence, the petition was without any merit.

6. The counter affidavit filed by respondent No. 2 also says that the petitioner and his firm had indulged in cheating and criminal breach of trust inasmuch as by the date of the registration of the FIR, neither the shares were delivered nor payments were made to respondents No. 2 to 5. According to him the undertaking signed before Delhi Stock Exchange was sought to be signed 'without prejudice' but the Stock Exchange authorities refused to give cheques, if he wrote those words. The petitioner filed a rejoinder to the counter affidavit of respondent No. 2. An additional affidavit was also filed by the petitioner.

7. Learned counsel for the petitioner has vehemently argued that the FIR in question and the proceedings emanating there from are liable to be quashed inasmuch as the petitioner has not committed any offence under Section 420/406 or 120B IPC. According to him, the disputes between the parties are of purely civil nature and the respondents No. 2 to 5 are indulging in arm twisting tactics to pressurize the petitioner to extract some more amount from him to which they are not entitled. He argues that the petitioners' firm had wound up its business in accordance with the rules and regulations of Delhi Stock Exchange. It had placed all its accounts and list of creditors before the Default Committee for verification and deposited Rs.30 lacs also for payment to creditors. He submits that after the statement dated 24.5.2002 under which the respondents 2 to 5 received payments they have no justification for continuing with the criminal proceedings against the

petitioner. The dispute was in regard to the sale of the shares of Silver Line Industries and the shares which had been purchased on behalf of respondents No. 2 to 5 but the payment of the Silver Line Industries shares had already been made and the shares also have been delivered. He points out that in the letter dated 14.9.1998 written by the complainant to Delhi Stock Exchange, there was no allegation of any inducement or dishonest intention, which shows that the dealings between the petitioner and the respondents NO. 2 to 5 were routine business dealings without any misrepresentation or inducement. In the complaint before the Consumer Forum also, no allegations of cheating etc. were made and as such, it can be held that the FIR and the proceedings arising there from are an abuse of the process of law.

8. Learned counsel for the respondents No. 2 to 5, however, contends that the petitioner had not only made misrepresentations to respondents No. 2 to 5 but was also guilty of criminal breach of trust inasmuch as in spite of being an agent only of respondents No. 2 to 5, he refused to hand over the sale proceeds of the shares of Silver Line Industries as well as the share certificates of some of the companies, which were delivered only after the FIR was registered. According to him, it is not a case in which the Court should exercise its powers for quashing the FIR for the reason that the FIR discloses the commission of various cognizable offences by the petitioner.

9. I have heard learned counsel for the petitioner and learned counsel for the respondents. I have gone through the records of the case.

10. The principles and the parameters for quashing a complaint or an FIR were settled by the Apex Court in the case of State of Haryana Vs . Bhajan Lal & Ors. : 1992 CriLJ527 . It was held that the powers for quashing a complaint or FIR should be exercised sparingly and only in exceptional cases and ordinarily, the Courts ought not to interfere with the investigations of cognizable offences. It was also held that the Court would not be justified in embarking upon an inquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint. In the cases of Rupan Deol Bajaj v. K.P.S. Gill; reported in (1995) SCC 1059, Rajesh Bajaj v. State of NCT of Delhi; : 1999 CriLJ1833 and Medchl

Chemicals & Pharma (P) Ltd. v. Biological E Ltd. & Ors; reported in 2000 SCC 615 as well as Trisuns Chemical Industry v. Rajesh Agarwal & Ors. : 1999 CriLJ4325 also, the Apex Court held in no uncertain terms that in case a perusal of the FIR or the complaint discloses the commission of a cognizable offence, the Court must not axe down the FIR or the complaint at the threshold. It has been held that quashment of the FIR or a complaint in exercise of inherent powers of the High Court should be limited to very extreme and exceptional cases as indicated in Bhajan Lal v. State of Haryana (supra). It is settled position of law that if a prima facie case is made out disclosing the ingredients of the offence, the Court must not quash the FIR and the approach should be very circumspect, cautious and careful. A complaint or an FIR can be quashed only if the allegations made therein even if taken at their face value and accepted in entirety do not constitute any cognizable offence or the Court is of the view that the prosecution is absolutely frivolous and amounts to abuse of the process of law.

11. In the cases of Kamala Devi Aggarwal v. State of West Bengal; reported in : 2001 CriLJ4733 , Lalmuni Devi v. State of Bihar; reported in : (2001)2SCC17 , T.S. Rajamoni v. Randip Barua; reported in and Trisuns Chemical Industry v. Rajesh Agarwal & Ors. (supra) it has been held that the mere fact that a dispute is of civil nature also cannot be made a ground for quashing an FIR. The fact that an act has a civil profile also is not sufficient to denude it of its criminal outfit. In Rajesh Bajaj v. State of NCT of Delhi (supra) it was observed that the facts narrated in a complaint may reveal a commercial or money transaction but that hardly is a reason for holding that the offence of cheating is not made out. It was observed that many a cheatings are committed in the course of commercial and money transactions.

12. Learned counsel for the petitioner has relied upon the judgments in Ajay Mitra v. State of M.O. & Ors. : 2003 CriLJ1249 , Chandrapal Singh & Ors. v. Maharaj Singh & Anr. : 1982 CriLJ1731 , G.Sagar Suri & Anr. v. State of U.P. and Ors. : 2000 CriLJ824 , K. Murugan v. Fencing Association of India, Jabalpur & Ors. : [1991]1SCR659 and Madhavrao Jiwajirao Scindia & Ors. v. Sambhajirao Chandrojirao Angre & Ors. : 1988 CriLJ853 . In these judgments also, the principles as discussed hereinbefore have been enunciated.

13. In the light of the law and the powers of the High Court as discussed above, this Court finds that the FIR made by respondent No. 2 against the petitioner cannot be held to be either false or frivolous on the face of it or disclosing no cognizable offence. The respondent No. 2 has made categorical allegations in the FIR that the petitioner and his partner in spite of demands, did not pay the sale proceeds of 5000 shares of Silver Line Industries belonging to the complainant and his family and also did not deliver to them the shares of Satyam Computers, SBI and HCL Infosys. It was also alleged that they had dishonestly and fraudulently induced them to sell their shares and had committed breach of trust also. A further allegation was made that the petitioner and his partner had threatened him with dire consequences and told him that by spending Rs.1 lac, they could get him and his family killed/eliminated.

14. The plea of learned counsel for the petitioner that in August, 1998 itself, the petitioner's firm M/s. R.K. Relan & Company, which was a member of Delhi Stock Exchange, had decided to dissolve itself and had informed Delhi Stock Exchange which issued notices to its creditors including the respondents No. 2 to 5, is of no help to him and does not absolve the petitioner and his partner of the offences complained of in the FIR for the reason that it has come on record that the sale proceeds of certain shares, which had been earlier sold by the petitioner and his partner on behalf of respondents No. 2 to 5 and some share certificates were returned to respondents No. 2 to 5 only after the filing of the FIR. This conduct may be a factor for indulgence in the matter of sentence but does not absolve the petitioner of the offences complained of. The settlement of claims of respondents NO. 2 to 5 through Delhi Stock Exchange or the payments received by respondents No. 2 to 5 after the verification of their claims by a Default Committee of Delhi Stock Exchange also does not obliterate the offences complained in the FIR. The fact that the respondents No. 2 to 5 had moved Delhi State Consumers Disputes Redressal Commission but had not made any allegations therein in regard to the offences of cheating and criminal breach of trust is of no consequence inasmuch as in the complaint made before the Commission even, same facts were reiterated and relief was claimed against the petitioner and his firm. Before the said Commission, there was neither any need nor any purpose to allege that some offences had been committed by the petitioner and his partner.

The deposit of a sum of Rs.30 lacs by the firm of the petitioner with Delhi Stock Exchange to settle the claims of the creditors was also immaterial as the petitioner being a member of Delhi Stock Exchange was obliged to follow the procedure for settling the claims of the creditors but it does not mean that the grievance of respondents No. 2 to 5 against the petitioner and his partner were without any basis or was false and frivolous. The malpractices of the share brokers who play in the market with the funds of their clients are well known and as such, it cannot be said at this stage that the FIR made by respondent No. 2 and the allegations contained therein are false and frivolous and are required to be axed at the threshold. The allegations in regard to the threats given to the respondent No. 2 to get him and his family eliminated through some hired killers also make out a cognizable offence, which requires investigation and action in accordance with law.

15. The existence of a civil dispute between the petitioner and respondents No. 2 to 5 does not ipso facto mean that the dispute has no criminal profile. The civil dispute might have been settled through Delhi Stock Exchange and the respondents might have received payment even after giving undertakings in view of the settlement dated 24.5.2002 but that in no way absolves the petitioner of criminal liability, if any, arising out of the transaction. The allegations of inducement, criminal breach of trust and criminal intimidation as made in the FIR did make out cognizable offences, which called for registration of FIR and investigations. thereforee, this Court does not find it to be a fit case for exercise of discretion to quash the FIR as prayed.