

Dr. Manoj Gupta Vs. State

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SooperKanoon Citation : sooperkanoon.com/700804

Court : Delhi

Decided On : Feb-15-1999

Reported in : 78(1999)DLT121; 1999(49)DRJ129

Judge : N.G. Nandi, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 120B and 448

Appeal No. : Crl. Revision No. 317 of 1998

Appellant : Dr. Manoj Gupta

Respondent : State

Advocate for Def. : M.S. Butalia, Adv.

Advocate for Pet/Ap. : R.K. Naseem, Adv

Disposition : Petition dismissed

Judgement :

N.G. Nandi, J.

1. This criminal revision petition is directed against the order dated 24.7.1998 framing charge against the petitioner along with other accused persons. As far as this petitioner is concerned, the charge framed is for the offence under Section 120-B, IPC. The other accused persons are charged for the offences under

Sections 448/452/342/506 and Sections 186/353 read with Section 34, IPC.

2. The allegation against the petitioner is that he conspired with co-accused to take unlawful possession and as such to trespass in the premises, thereby alleging offence under Section 448, IPC.

3. The Trial Court record has been placed for my perusal. The perusal of the same suggests that the complainant, a Security Guard, alleged in his complaint that on 26.4.1995 at about 4.30 p.m. the accused persons trespassed in the premises bearing No. 150, Kapil Vihar, Pitam Pura, Delhi by breaking the lock of the staircase and entered the first floor of the premises; that the complainant was confined to the kitchen with the threat that he would be killed in case he raised noise; that the complainant was also caught by accused Balwant Singh and other accused persons went on the upper floor of the premises; that a country made revolver was also put on the temporal region of the complainant by the accused and the accused persons were apprehended by the police and the country made revolver, cartridges also recovered from the possession of one of the accused person.

The Trial Court record also suggests the statements of the complainant, witnesses Shiv Charan Gupta, ASI Baldev Singh and H.C. Parmesh Kumar recorded under Section 161 of the Criminal Procedure Code (hereinafter referred to as 'theCode'). In the incident, injury was also sustained by complainant Phool Chand besides S.I. Jitender Singh receiving grievous hurt.

4. As pointed out above, the present petitioner is alleged to have conspired with the other accused persons in getting unlawful possession of the premises concerned. The statement of Smt. Hardevi Wadhwa, suggests that there was an enmity with the present petitioner.

5. One of the arguments advanced by Ft. R.K. Naseem, learned Counsel for the petitioner is that the statement of co-accused, which is confessional in nature, is not admissible in law under Section 25 of the Indian Evidence Act and that there is no evidence to link this petitioner with the other accused persons. I have also considered the statement of co-accused Brahm Singh. Apart from the nature of

statement, as sought to be contended by learned Counsel for the petitioner, the material on record certainly suggests that Manoj Gupta (petitioner) very much wanted the possession of the property bearing No. 150. The statement of witness Hardevi not only suggests the enmity with the petitioner but also that the whole incident allegedly designed by accused Manoj Gupta (petitioner). It can be safely said for the present limited purpose that the link of the petitioner is prima-facie suggested from the material on record apart from the inadmissibility, if any, of the statement made by the accused, either whole or part of it qua the maker of it.

6. Considering the lower Court record, I do not find any illegality or impropriety committed by the Court below in framing the charge for the offence under Section 120-B, IPC against the present petitioner and the order dated 24.7.1998, framing charge against the petitioner does not call for any interference.

7. In view of the above, the petition being devoid of merits, is liable to be dismissed. Order accordingly.

8. The interim order dated 28.8.1998, staying the proceedings before the Trial Court is vacated.

9. Trial Court record be returned forthwith.