

Rachna Gera and ors. Vs. State and ors.

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SooperKanoon Citation : sooperkanoon.com/703521

Court : Delhi

Decided On : May-20-2005

Reported in : 122(2005)DLT412

Judge : Manju Goel, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 34, 406, 420, 468 and 471

Appeal No. : Crl. M.C. No. 724 of 2005

Appellant : Rachna Gera and ors.

Respondent : State and ors.

Advocate for Def. : O.P. Saxena and ; Dinesh Kumar, Advs. for Respondent No. 2 and ;

Advocate for Pet/Ap. : K.K. Sareen, Adv

Disposition : Petition allowed

Judgement :

ORDER

Manju Goel, J.

1. This petition seeks quashment of FIR No. 768/2000 under Sections 406/420/468/471/34, IPC registered at Police Station Connaught Place, New Delhi

registered at the instance of the respondent No. 2 namely, The Hong Kong & Shanghai Banking Corporation Ltd., (HSBC). The petitioners, namely, Mrs. Rachna Gera and Mr. Lalit Gera obtained loan from the complainant bank for purchase of a car under a Hire Purchase Agreement and the petitioners appear to have committed defaults in paying the Installments. In the FIR, it is alleged that the complainant demanded the vehicle when the defaults in paying the Installments were made and the petitioners failed to produce the vehicle giving rise to a suspicion in the mind of the complainant that the vehicle has been sold away to some third party and that for doing so a written consent of the complainant bank may have been forged.

2. The complainant/respondent No. 2 bank and the petitioners have compromised. The petitioners, therefore, pray for quashment of the complaint. A compromise agreement has been placed on record. Mr. Alok Narayan Mathur, Attorney Holder of the respondent No. 2/Bank is present before the Court along with his Counsel and confirms that there has been an agreement. The respondent No. 2 also consents to the quashment of the above FIR.

3. Although, the FIR was initially registered under Sections 406/34, IPC, subsequently the Sections 420/468/471 were added. It is clear from the FIR that respondent did not actually have any forged document. The FIR in respect of the forgery and using of a forged document is merely a product of suspicion. therefore, the mention of these two Sections in the FIR should not stand in the way of quashment of the complaint. The offence under Sections 420, IPC is a compoundable offence, Section 406, IPC is also compoundable if the value of the property does not exceed two hundred and fifty rupees. Further, I find that the dispute was primarily of a civil nature. There is no allegation of a criminal intent at the inception of the transaction of the loan. In this situation, I see no reason why the FIR should continue. In view of the nature of the offence and the compromise between the parties, I allow this petition and quash the above FIR and the proceedings emanating there from.