

Mohit Kumar Vs. State and ors.

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SooperKanoon Citation : sooperkanoon.com/704493

Court : Delhi

Decided On : Sep-30-2003

Reported in : 2003VIIIAD(Delhi)323; 108(2003)DLT584

Judge : J.D. Kapoor, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 145

Appeal No. : Crl. M.(M) No. 973 of 2002

Appellant : Mohit Kumar

Respondent : State and ors.

Advocate for Def. : Pawan Sharma, Adv.

Advocate for Pet/Ap. : Manish Vashisht and; Umesh Mishra, Adv.

Disposition : Petition allowed

Judgement :

ORDER

J.D. Kapoor, J.

1. Instant FIR was registered against the petitioner on the complaint of respondent No. 2 that on 4.2.1999 the petitioner had forcibly entered into the premises referred as Flat No. 704, Survapriya Apartments, Survapriya Vihar, New Delhi and

took over the possession.

2. It is pertinent to mention that petitioner has filed a civil suit against the complainant/informant No. 1 in respect of property in question. The petitioner is claiming ownership as well as possession over the said property being son of the deceased owner. The respondents/complainants are the nephews of the deceased owner. In the aforesaid civil suit the Civil Judge vide order dated 11.2.1999 has ordered that 'in the meantime the parties are directed to maintain status quo regarding the suit property and disturbing the peaceful possession of the petitioner'.

3. As is apparent there is a dispute with regard to the possession and title over the property in question. Not only that the dispute as to possession has also landed in the Court of the SDM by way of proceedings under Section 145, Cr.P.C.

4. Aforesaid facts show that the dispute is mainly of civil nature. The grievance of the respondent that the proceedings before the SDM under Section 145, Cr.P.C. by way of which the possession of the parties shall be determined at the relevant time have been stayed because of the pendency of this petition.

5. Since the matter can be settled only by the SDM with regard to the possession as on relevant date through proceedings under Section 145, Cr.P.C. Stay against proceedings under Section 145, Cr.P.C. before the SDM is hereby vacated so that the question of possession at the relevant time may be determined.

6. In the result, petition is allowed, FIR as well as proceedings arising there from are quashed firstly because the dispute being of civil nature, secondly for pendency of the civil suit in the Civil Court and thirdly because of the pendency of proceedings under Section 145, Cr.P.C. before the SDM, the proceedings under Section 145, Cr.P.C. before the SDM are hereby vacated. The petitioners are discharged from the bail bonds.

7. Parties are directed to appear before the SDM on 21st October, 2003 for further proceedings.

