

Mahinder Singh Vs State

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Court : Delhi

Decided On : Oct-29-2010

Judge : Mr. Shiv Narayan Dhingra, J.

Acts : Code Of Criminal Procedure (CRPC) - Sections 482, 320, 452 ; Indian Penal Code (IPC) - Section 147, 323, 325, 356, 379 , 452 IPC

Appeal No. : Crl.M.C.No. 3268/2010 ; Crl.MA No. 1632/2010

Appellant : Mahinder Singh

Respondent : State

Advocate for Def. : Mr. Sunil Sharma ; Mr. Dheeraj, SI, Advs.

Advocate for Pet/Ap. : Mr. Michael Peter, Adv.

Judgement :

1. Whether reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the reporter or not? Yes.
3. Whether judgment should be reported in Digest? Yes.

1.By this petition under Section 482 Cr.P.C. read with Section 320 Cr.P.C., the petitioner has prayed that this Court should compound the offence under Section 452 IPC committed by the petitioner in order to secure the ends of justice and to maintain peace and harmony amongst the disputed parties, since the petitioner

had entered into compromise in respect of other offences in respect of the same incident.

2. A perusal of documents filed by the petitioner would show that the petitioner was an accused in FIR No. 319/2000 PS Mandawali and he was charged by the learned MM under Section 147, 323, 325, 356, 379 & 452 IPC read with Section 149 of IPC. The petitioner entered into a compromise with the victims and an application for compounding of offences was made. As far as offences under Section 147, 323, 325, 356, 379 IPC are concerned, they being compoundable offences, the learned MM vide its order dated 25th March, 2010 allowed compounding of these offences in terms of the compromise, since, offence under Section 452 IPC does not fall in the list of compoundable offences so no compounding of this offence was recorded. Counsel for the petitioner however told the trial Court that the petitioner would move an petition for quashing of FIR for the offences under Section 452 IPC. The petitioner instead of filing a petition for quashing of FIR, filed this petition praying that this Court should compound offence under Section 452 IPC.

3. I consider that compounding can be done by the Court where trial is pending and not by the High Court under Section 482 Cr.P.C. Since Section 452 IPC is a non-compoundable offence, this Court in exercise of its inherent powers cannot make a non-compoundable offence as a compoundable offence and record a compromise. The inherent powers granted under Code of Criminal Procedure to this Court are only supplementary powers in respect of those matters where no provision exists in Cr.P.C.. Where specific statutory provisions exist in respect of compounding of offences, this Court using inherent powers cannot pass orders contrary to statutory provisions or in derogation of statutory provisions.

4. It is argued by the Counsel for the petitioner that under Sub- Section 3 of Section 320 Cr.P.C, Section 452 IPC becomes compoundable. Sub-Section 3 of Section 320 Cr.P.C. reads as under: 3) When any offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (When such attempt is itself an offence) may be compounded in like manner.

5. It is apparent that Sub-Section 3 is applicable only in those cases where the offence is enumerated as a compoundable offence, in the schedule given under Section 320 Cr.P.C. Only when an offence is enumerated as compoundable, abetment of such offence or an attempt to commit such offence can be compounded in like manner. If an act results into several offences including a non-compoundable and the compound ability of other offences would not turn a non-compoundable offence into a compoundable offence.

6. I find that this petition filed by the petitioner is not maintainable and is liable to be dismissed. The petition is hereby dismissed. However, the petitioner would be at liberty to file a petition for quashing of FIR.

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