

i C Khurana and anr Vs. State

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Court : Delhi

Decided On : Feb-14-2011

Judge : Shiv Narayan Dhingra, J.

Acts : Indian Penal Code (IPC) - Sections 406, 420, 468, 471, 120-B; Code of Criminal Procedure (CrPC) (Cr.P.C) - Section 482

Appeal No. : W.P.(CRL) 1341/2010 with Crl. M.A. 14738/2010 & Crl.M.A. 14740/2010 & Crl.M.A.1/2011.

Appellant : i C Khurana and anr

Respondent : State

Advocate for Def. : Mr. O.P. Saxena, Adv.

Advocate for Pet/Ap. : Mr. Sanjeev Puri; Mr. Gyaltsen, Adv.

Judgement :

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

1. This petition has been filed by the petitioner for quashing of FIR registered against the petitioner with Economic Offences Wing under Section 406, 420, 468, 471 and 120-B of IPC. The respondent in this case had alleged that a

supplementary agreement to sell dated 23rd September, 2009 entered into between the parties, subsequent to agreement to sell dated 6th May, 2009, was partially fabricated and forged by the petitioner as the petitioner inserted an additional clause into the agreement dishonestly and fraudulently so as to cheat the respondent of a huge amount of ` 20.00 crore. It was alleged that forged insertion was made without the authority of the complainant in order to cause wrongful loss of ` 20.00 crore to the complainant and wrongful gain to the accused persons. Counsel for the petitioner argued that this FIR was false as no forgery was done by the petitioner. However it is not disputed that the petitioner himself has also filed a criminal complaint against the complainant alleging that it was rather complainant who forged the same clause of the agreement by deleting a part of it. This complaint of petitioner is also under adjudication.

2. It is settled law that an FIR can be quashed under Section 482 Cr. P.C. only if all the assertions made in the FIR on being considered true, do not disclose commission of an offence. An FIR cannot be quashed by High Court by appreciating the evidence of both the sides as reflected from the documents and coming to conclusion that FIR was false. In fact, that would convert the High Court into a trial court. Under Section 482 Cr. P.C. High Court cannot transport the trial of a case from Magistrate to itself and start deciding, without evidence, whether the FIR was a false FIR or a truthful FIR, by adjudicating claims of the parties on pleadings. Quashing has to be done only in those rare cases where the entire allegations considered true disclose commission of no offence.

3. In the present case both the parties are alleging forgery of same clause of the same document. Under these circumstances, I consider it would not be appropriate to quash the FIR, instead it would be appropriate if the claim of the parties of forgery is adjudicated by the trial court after 2 of 3 evidence and the trial court gives a finding as to which part of the agreement was forged and by whom. I therefore find no force in this petition. The petition is dismissed.