

Aman Gupta and anr Vs. State and anr

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Court : Delhi

Decided On : Nov-14-2011

Judge : Suresh Kait, J.

Acts : [Indian Penal Code \(IPC\), 1860 \(IPC\)](#) - Sections 452, 324, 380, 427, 34

Appeal No. : CRL.MC No.3343 of 2011

Appellant : Aman Gupta and anr

Respondent : State and anr

Judgement :

1. Notice issued.
2. Ld. APP accepts notice on behalf of the State.
3. Respondent No.2 Mr. Varun Jain is personally present in the Court.
4. Ld. counsel for the petitioners submits, vide FIR No.672 dated 06.09.2007 a case under Section 452/324/380/427/34 Cof Indian Penal Code, 1860 was registered at PS Shakarpur against the petitioners on the complaint of respondent No.2. Ld. counsel further submits that the respondent No.2 has settled all the issues qua the aforesaid FIR with the petitioners. Therefore, he is not interested to pursue the case further.

5. Respondent No.2 Mr. Varun Jain has been identified by the Id. counsel for the petitioners. In addition, he has also produced his PAN Card bearing No. AFMPJ0111N issued by the Department of Income Tax. He states that since he is living in the same locality, therefore, just to remove enmity with the petitioners he wants that the present FIR may be quashed.

6. Ld. counsel for the petitioners submits that the charge has not yet been framed.

7. Ld. APP submits that in the present case the offence under Section 452/324/380/ of IPC is non-compoundable and only Section 427 is compoundable. She has referred to the judgment of Hon'ble Supreme Court in Gian Singh Vs. State of Punjab & Anr. in SLP (Crl.) No.8989/2010 wherein the Division Bench of the Supreme Court has referred three earlier decisions, viz, B.S. Joshi V. State of Haryana (2003) 4 SCC 675, Nikhil Merchant v. Central Bureau of Investigation and Anr. (2008) 9 SCC 677 and Manoj Sharma Vs, State & Ors. (2008) 16 SCC 1, to the larger Bench for re-consideration whether the abovesaid three decisions were decided correctly or not.

8. Previously, I have taken the view on the basis of the judgment of the Division Bench of Mumbai High Court in Nari Motiram Hira Vs. Avinash Balkrishnan & Anr. in Crl.W.P.No.995/2010 decided on 03.02.2011 whereby the Division Bench of Mumbai High Court has permitted for compounding of the offences under Section 452/324 of Indian Penal Code which were 'non-compoundable' as per Section 320 Cr. P.C. and the FIR No.50/2010 registered at Amboli Police Station, Andheri dated 06.02.2010, was quashed. Therefore, I feel that unless and until, the decisions which have been referred above, are set aside or altered, the same decisions are the precedent and have binding effect.

9. Alternatively, Ld.APP submits that if the Court is inclined to quash the aforesaid FIR, then heavy costs may be imposed on the petitioners for substantial justice.

10. In the above circumstances, I quash the aforesaid FIR No.672 dated 06.09.2007 under Section 452/324/380/427/34 of Indian Penal Code, 1860 registered at PS Shakarpur and all the proceedings emanating therefrom.

11. I find force in the submission of the Id. APP for the State. Ld. counsel for the petitioners, on instructions from the petitioners, submits that they wish to contribute some amount for the welfare of the orphan children and destitute women. Keeping in view the submission of the Id. counsel for the petitioners, I direct both the petitioners to pay Rs.75,000/- each in favour of the Nursery Primary School for Deaf, B-Block, Kalkaji, New Delhi within two weeks from today. Proof thereof shall also be placed on record.

12. The Principal of the said school is directed to keep the amount of Rs.1,50,000/- in FDR initially for a period of three years to be renewed periodically. The interest accrued on the same amount shall be utilized for the well being of the needy children of the school.

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