

**Dharam Singh Vs State and anr**

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**Court :** Delhi

**Decided On :** Nov-24-2011

**Judge :** Suresh Kait, J.

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

**Appeal No. :** CRL.M.C. No. 3885 of 2011

**Appellant :** Dharam Singh

**Respondent :** State and anr

**Judgement :**

1. Learned counsel for the petitioner submits that vide FIR No.329/2001 dated 12.07.2001 a case under Section 324/34 Indian Penal Code, 1860 was registered against the petitioner on the complaint of respondent No.2 at police station Shakarpur, Delhi.
2. He further submits that petitioner and respondent No.2 are real brothers and now they have amicably settled all the issues qua the present FIR and respondent No.2 does not wish to pursue his case any further.
3. Respondent No.2 is personally present in the Court with her counsel Mr.S. K. Runga, learned Senior Advocate. On instructions, learned Senior Advocate submits that all the issues with respect to abovesaid FIR has been settled with the petitioner and respondent No.2 does not wish to pursue his case no more and he

has no objection, if the present FIR is quashed.

4. Ms.Rajdipa Behura, learned APP for State submits that on completion of investigation, charge-sheet has been filed in the Trial Court; however, charge has yet not been framed against the petitioner.

5. Learned APP cited decision rendered by Hon'ble Supreme Court in Gian Singh v. 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 & Anr.(2008) 9 SCC 677 & Manoj Sharma v. State & Ors. (2008) 16 SCC 1 to the larger Bench for re-consideration whether the abovesaid three decisions were decided correctly or not. Therefore, she has prayed that till the outcome of the larger Bench of the Apex Court, present petition may be adjourned sine-die. Alternatively, she prayed that in the event, the FIR is quashed, heavy costs should be imposed upon the petitioners, as the government machinery has been used and the precious time of the Court has been consumed.

6. The Division Bench of Mumbai High Court in Nari Motiram Hira v. Avinash Balkrishnan & Anr. in Crl.W.P.No.995/2010 decided on 03.02.2011 has permitted for compounding of the offences of 'non- compoundable' category as per Section 320 Cr. P.C. even after discussing Gian Singh (supra).

7. Therefore, I also feel that unless and until, the decisions which have been referred above, are set aside or altered, by the larger Bench of the Supreme Court, all the above three decision hold the field and are the binding precedents.

8. Keeping the settlement into view and the fact that respondent No.2 does not wish to pursue his case against the petitioner, in the interest of justice, FIR No.329/2001 under Section 324/34 Indian Penal Code, 1860 registered against the petitioner at police station Shakarpur, Delhi and the emanating proceedings therefrom, are hereby quashed.

9. I find force in the submission of learned APP for State regarding costs, however, considering the fact that petitioner is retired government servant and surviving on

pension only, therefore, I refrain in imposing any costs upon him.

10. Accordingly, Criminal M.C.No.3885/2011 stands allowed and disposed of.

11. Dasti.

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