

Ashok Kumar Singh Alias Bablu and ors Vs. State

Ashok Kumar Singh Alias Bablu and ors Vs. State

SooperKanoon Citation : sooperkanoon.com/924877

Court : Delhi

Decided On : Dec-15-2011

Appellant : Ashok Kumar Singh Alias Bablu and ors

Respondent : State

Judgement :

\$~2 * IN THE HIGH COURT OF DELHI AT NEW DELHI + CRL.M.C. 4068/2011 %
Judgment delivered on:15th December, 2011 ASHOK KUMAR SINGH ALIAS
BABLU and ORSPetitioner Through : Mr. Chakravarti, Adv. versus STATE
Respondent Through: Mr. Navin Sharma, APP. Mr. Lalit Kumar, Adv. for R-2 to.

4. CORAM: HON'BLE MR. JUSTICE SURESH KAIT SURESH KAIT, J. (Oral)
CRL. M.C. 4068/2011 1 Notice issued.

2. Mr. Navin Sharma, learned APP accepts notice on behalf of State.

3. Learned counsel for the petitioner submits that vide FIR No.

925. dated 25.09.2007, a case under Sections 308/323/34 Indian Penal Crl.M.C.
4068/2011 *Page 1 of 4* Code, 1860 was registered against the petitioners at P.S.
Sangam Vihar, Delhi on the complaint of respondent No..

2. Respondent no.

3. sustained injuries during scuffle.

4. Learned counsel further submits that vide settlement deed dated 29.11.2011, all the disputes amongst the parties have been amicably settled.
5. Respondent Nos. 2, 3 and 4 are personally present in the court today and have been duly identified by their counsel Mr. Lalit Kumar, Advocate.
6. Learned counsel for respondent Nos. 2, 3 and 4, on instructions submits that they do not want to pursue the case further in pursuance of settlement arrived at between the parties. They have no objection if the FIR is quashed.
7. Learned counsel further submits that though there has been a cross case against the parties vide FIR No. 924/2007, the same has already been compounded before learned MM under Sections 323/304/506 Indian Penal Code, 1860.
8. Learned APP for State submits that the instant FIR No. 925/2007 pertains to Section 308 Indian Penal Code, 1860 which is non-compoundable in nature.
9. Learned APP referred the decision of Hon'ble Supreme Court in *Gian Singh v. State of Punjab and 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 v. State and Ors.* (2008) 16 SCC 1 Crl.M.C. 4068/2011 *Page 2 of 4* 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 precious time of the Court has been consumed.
10. The Division Bench of Mumbai High Court in *Nari Motiram Hira v. Avinash Balkrishnan and 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).

11. Therefore, I 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.

12. Learned APP further submits that if this court is inclined to quash the FIR, heavy costs shall be imposed upon the petitioner as in the process Government Machinery and precious time of the court have been consumed.

13. Though I find force in the submissions made by learned APP for State, but keeping in mind poor financial position of petitioners, I refrain imposing costs upon them. CrI.M.C. 4068/2011 *Page 3 of 4* 14 Keeping in view the statements made by respondent Nos.

2. and 3, and settlement arrived at between the parties, I quash the FIR No. 925/2007, registered at P.S. Sangam Vihar, Delhi and all the proceedings emanating therefrom.

15. Criminal M.C. 4068/2011 is allowed on the above terms.

16. Dasti. CRL. M.A. 19028/2011 In view of above, this application is disposed of being infructuous. SURESH KAIT, J DECEMBER 15, 2011 j CrI.M.C. 4068/2011
Page 4 of 4

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com