

Naresh Kumar and ors Vs. State and ors

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Court : Delhi

Decided On : Dec-12-2011

Appellant : Naresh Kumar and ors

Respondent : State and ors

Judgement :

\$~35 * IN THE HIGH COURT OF DELHI AT NEW DELHI + CRL.M.C. No. 3818/2011 % Judgment delivered on:12th December, 2011 NARESH KUMAR AND ORS Petitioner Through: Mr.C.Parkash and Mr.Sachin Kumar, Advs. versus STATE AND ORS Respondents Through : Ms.Rajdipa Behura, APP for State with SI Ram Pal, police station Uttam Nagar, New Delhi in person. Mr.Sachin Nahar, Adv for R-2 with respondent in person. CORAM: HON'BLE MR. JUSTICE SURESH KAIT SURESH KAIT, J. (Oral).

1. Notice issued..

2. Ms.Rajdipa Behura, learned APP on behalf of State/respondent No.1 and Mr.Sachin Nahar, learned counsel on behalf of respondent No.1 accept notice..

3. Learned counsel for petitioners submits that vide FIR No.546/2000 under Section 447/467/468/471/34 IPC a case was Crl.M.C.No.3818/2011 *Page 1 of 4* registered against the petitioners at police station Uttam Nagar, on the complaint of respondent No.2..

4. He further submits that the matter has been settled between the parties at the Delhi High Court Mediation and Conciliation Centre on 21.07.2011 and pursuant thereto respondent No.2 does not wish to continue his case against the petitioners and he has no objection, if the present FIR is quashed..

5. Respondent No.2 present with his learned counsel, who duly identifies him. Sub Inspector Ram Pal, police station Uttam Nagar, New Delhi, who also identifies him..

6. Learned counsel for respondent No.2, on instruction from his client submits that he has compromised the matter with respondents and all issues qua present FIR stands settled..

7. The matter has been settled by the parties before the Mediation Centre, which has the binding effect..

8. The parties shall abide by the terms and conditions as agreed to before the Mediation Centre..

9. Ms.Rajdipa Behura, learned APP for State on instructions, submits that after framing of charge, matter is pending for recording prosecution evidence before learned Trial Court..

10. She further submits that in the present matter, 'non- compoundable' offences are involved and referred the decision of Hon'ble Supreme Court in Gian Singh v. State of Punjab and Anr. in CrI.M.C.No.3818/2011 *Page 2 of 4* SLP (CrI.) 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 to the larger Bench for re-consideration whether the above-said 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..

11. The Division Bench of Mumbai High Court in *Nari Motiram Hira v. Avinash Balkrishnan and Anr.* in CrI.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)*..

12. 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..

13. Keeping the settlement arrived between the parties before the Mediation Centre, into view, which is having binding effect upon the parties, FIR No.546/2000 registered against the petitioners at police CrI.M.C.No.3818/2011 *Page 3 of 4* station Uttam Nagar and the proceedings emanating thereto are hereby quashed..

14. Learned counsel for petitioners, on instructions from petitioner No.1 has come forward and stated that petitioner No.1 will contribute a sum of ` 25,000/- for some welfare purposes..

15. Consequently, I direct the petitioner No.1 to deposit the said amount of ` 25,000/- in favour of "Nursery Primary School for Deaf and Dumb, B Block, Kalkaji, New Delhi" within two weeks from today and proof thereof shall be placed on the record by the petitioners..

16. The principal/Head Master is directed to keep the above amount in FDR initially for one year with any Nationalized bank and thereafter get it renewed periodically. The interest accrued thereon shall be utilized for the well being of the needy children of the school..

17. In view of above, Criminal M.C.No.3818/2011 stands allowed and disposed of..

18. Dasti. SURESH KAIT, J DECEMBER 12, 2011 Mk CrI.M.C.No.3818/2011
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