

Anil Kapoor Vs. State and Others

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Court : Delhi

Decided On : Mar-30-2012

Judge : Suresh Kait

Appeal No. : CRL.M.C. 1119 of 2012

Appellant : Anil Kapoor

Respondent : State and Others

Judgement :

SURESH KAIT SURESH KAIT, J. (Oral)

CRL. M.A. 3941/2012 (Exemption)

Allowed subject to all just exceptions.

CRL. M.A. 3942/2012 (Delay) Delay condoned.

The application is disposed of.

CRL. M.C. 1119/2012

1. Notice issued.

2. Ms. Rajdipa Behura, learned APP accepts notice on behalf of State.

3. With the consent of learned counsels for the parties, the matter is taken up for disposal today.
4. Ld. counsel for the petitioners submits that vide FIR No. 14 dated 12.01.2005, a case was registered against the petitioners on complaint of complainant/respondent No.2 for the offences punishable under sections 403/406/418/420/468 IPC at P.S. Vasant Vihar, Delhi.
5. Further submits that all the disputes between the parties have amicably been settled vide compromise dated 07.02.2009. In view of the said compromise, respondent No.2 is no more interested to pursue the case and has no objection if the FIR is quashed. An affidavit to this effect is annexed with the petition at page 8.
6. Respondent No.2 is present in person in the court today. For his identification, he has produced his Driving License issued by Transport Department, NCT of Delhi vide No. P03042005448846. The same has been returned to him after perusal.
7. Respondent No. 2 submits that in view of the settlement arrived at between him and petitioner; he does not want to pursue the abovementioned FIR. He has no objection if the instant FIR is quashed.
8. Ld. APP on the other hand submits that the Charge-sheet has been filed however, charges are yet to be framed.
9. Further submits that the offences punishable under Sections 468 IPC are non-compoundable in nature, therefore, the instant petition may not be allowed.
- 10 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*** to the larger Bench for re-consideration whether the abovesaid three decisions were decided correctly or not. Therefore, she has prayed that till

the matter is decided by the larger Bench of the Apex Court, instant petition may be adjourned *sine-die*. Alternatively, she prayed that in the event, the FIR is quashed, heavy costs may be imposed upon the petitioners, as the government machinery has been pressed into and precious public time has been consumed in this case.

11. 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)***.

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. In addition, the Supreme Court in ***Shiji @ Pappu and Ors. v. Radhika and Anr*** in ***Crl.Appeal No.2064/2011*** decided on ***14.11.2011*** that the cases of *non-compoundable* nature can be compounded, certainly not after the conviction observing as under:-

„..... That being so, continuance of the prosecution where the complainant is not ready to support the allegations which are now described by her as arising out of some “*misunderstanding and misconception*”; will be a futile exercise that will serve no purpose. It is noteworthy that the two alleged eye witnesses, who are closely related to the complainant, are also no longer supportive of the prosecution version. **The continuance of the proceedings is thus nothing but an empty formality. Section 482 Cr.P.C. could, in such circumstances, be justifiably invoked by the High Court to prevent abuse of the process of law and thereby preventing a wasteful exercise by the Courts below.?**

14. I find force in the submissions made by learned APP for State on costs.

15. Ld. counsel for the petitioner, at this stage has come forward and upon instructions, submits that petitioner is ready to contribute a sum of Rs.1lacs towards welfare purposes.

16. I appreciate this gesture of petitioner.

17. Accordingly I direct petitioner to deposit a sum of Rs.1lacs in favour of Delhi High Court Legal Services Committee within a period of 04weeks from today. Proof of the same shall be placed on record.

18. Keeping in view the above discussion, statement of respondent No.2 into view and in the interest of justice, I quash FIR No. 14/2005 registered at P.S. Vasant Vihar, Delhi and all the proceedings emanating therefrom.

19. Criminal M.C.1119/2012 is disposed of on above terms.

20. Dasti.

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