

Muneesh Shankar Chopra & Anr vs The State (Nct Of Delhi) & Anr on 6 February, 2019

Author: R.K.Gauba

Bench: R.K.Gauba

\$~6 & 7 (common order)

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.M.C. 1348/2016 and Crl.M.A.5838/2016

MUNEESH SHANKAR CHOPRA & ANR. Petitioners

Through: Mr. Pawan K. Bahl, Advocate with
Petitioners in person.

versus

THE STATE (NCT OF DELHI) & ANR. Respondents

Through: Mr. Kewal Singh Ahuja, APP for the
State with ASI Anand Pal, PS Subzi
Mandi & SI Kamaljeet Singh, PS
Kashmere Gate.
Mr. Sanjeev Soni, Adv. for R-2 with
R-2 in person.

+ CRL.M.C. 1387/2016 and Crl.M.A.6426/2016

RAMESH ARYA Petitioner

Through: Mr. Sanjeev Soni, Advocate with
Petitioner in person.

versus

THE STATE (NCT OF DELHI) & ANR Respondents

Through: Mr. Kewal Singh Ahuja, APP for the
State with ASI Anand Pal, PS Subzi
Mandi & SI Kamaljeet Singh, PS
Kashmere Gate.
Mr. Pawan K. Bahl, Advocate for R-2
& R-3 with R-2 & R-3 in person.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA
ORDER

% 06.02.2019 Both these petitions were presented one after the other invoking inherent power and jurisdiction of this court under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) to seek quashing of the proceedings in the criminal case arising out of the two different reports to the police, the parties involved herein being common.

The first captioned petition relates to first information report (FIR) No.238/2011 of Police Station Subzi Mandi which was lodged by Ramesh Arya, the second respondent of the said case, allegations having been made against Muneesh Shankar Chopra and Vikram Chopra, the petitioners in the said matter, their father L.D.Chopra, who was also described as accomplice having since passed away.

The offences alleged in the said FIR No.238/2011 are punishable under Sections 193/420/468/471/120-B/34 of the Indian Penal Code, 1860 (IPC).

On the other hand, the second captioned petition relates to FIR No.261/2008 of Police Station Kashmere Gate registered at the instance of said L.D. Chopra (since deceased) he being survived by his sons Muneesh Shankar Chopra and Vikram Chopra, who are second and third respondents in the said Crl.M.C.1387/2016. The allegations in the said FIR No.261/2008 are directed against Ramesh Arya, petitioner in Crl.M.C.1387/2016 accusing him for commission of offence punishable under sections 420/468/465/471/199/200 IPC.

It appears from the material on record, and the pleadings of the parties in the two petitions, that the dispute revolves around the right, title and interest in property No.219, Indira Vihar, Kinghway Camp, Delhi-110 009. The said property was statedly purchased in the name of Kamla Arya, wife of Late Shri S.P. Arya, she being the mother of Ramesh Arya, she having since passed away. Late Shri L.D. Chopra, the father of Muneesh Shankar Chopra and Vikram Chopra is described as real brother of Mrs. Kamla Arya. It appears that after the death of Kamla Arya, a dispute had arisen, Late Shri L.D. Chopra and his sons having claimed that the property was purchased benami in the name of Kamla Arya, the consideration paid for such acquisition having been sourced from the funds of Late Shri L.D. Chopra. It appears that reliance was placed on a registered Will dated 03.12.1991 left behind by Kamla Arya, on the basis of which Muneesh Shankar Chopra and Vikram Chopra claimed bequest in the subject property. Ramesh Arya, on the other hand, questioned the validity and genuineness of the said will.

The above mentioned dispute between the parties led to three civil suits being filed, they including civil suit No.396/2015 (old No.369/2001) filed by Ramesh Arya; civil suit No.395/2015 (old No.320/2003) also filed by Ramesh Arya; and counter claim No.396/2015 (old No.397/2015) in the first captioned suit filed by Muneesh Shankar Chopra and Vikram Chopra. The first suit of Ramesh Arya was for relief of permanent injunction, Delhi Development Authority (DDA) also being a party, in the context of claim for mutation, some show cause notice having been issued by the said authority, the counter claim of the Muneesh Shankar Chopra and Vikram Chopra being for the relief of declaration. The other civil suit No.395/2015 was filed by Ramesh Arya for the relief of possession, damages and permanent injunction.

Against the above backdrop of the said civil litigation, both parties lodged FIRs against each other, the first FIR No.261/2008 having been registered at the instance of L.D. Chopra against Ramesh Arya, while the other FIR No.238/2011 was registered at the instance of Ramesh Arya against the opposite party.

As per the submissions of the learned Additional Public Prosecutor the investigation into both the said FIRs was completed and reports (charge sheets) under Section 173 Cr.P.C. were submitted in due course, the charges pressed in the first case being punishable for offences under Sections 420/120-B IPC, while in the other case the prosecution has been sought for offence punishable under Sections 428/468/471/199/200 IPC. He, at the same time, fairly conceded that no complaint under Section 195 Cr.P.C. has been filed concerning the offence under Sections 199/200 IPC. Both

cases concededly are pending before the trial court.

Be that as it may, against the above backdrop the parties entered into a family settlement agreement dated 15.02.2016. In terms of the said settlement, they have agreed to share the subject property in parts, the ground floor having gone to the share of Muneesh Shankar Chopra along with roof rights, the first and second floor having gone to the share of Ramesh Arya and third floor having fallen to the share of Vikram Chopra. By the same settlement agreement, the parties also agreed to bury the hatchet and seek quashing of the proceedings arising out of the two FIRs, they having been earlier lodged due to then pending dispute, the prayer being actuated by their intention to buy peace.

On the basis of above mentioned settlement, the parties had earlier approached the court of Additional District Judge (ADJ) where all the three said suits were pending. A copy of the judgment dated 27.02.2016 passed by the said court has been placed on record, it indicating that on the basis of compromise, a joint application was presented under Order XXIII Rule 3 of the Code of Civil Procedure, 1908 (CPC) read with Section 151 CPC, and upon consideration of the same a compromise decree was granted, the dispute having been treated as settled/compromised in terms of the family settlement (Ex.C1) made part of the decree.

It is also shown by documents filed in the registry during the course of the day, the same having been called for, that the parties, in terms of the said family settlement had approached the sub-registrar of District North- West Delhi and have got all the relevant documents duly registered on 12th May, 2016, the said documents inclusive of the judgment of the civil court, disposing of the said three suits, the decree, as also family settlement agreement.

It is clear from the above narration that the dispute between the parties is essentially private and civil in nature, the criminal cases registered being an off-shoot thereof. Following the principles laid down by the Supreme Court, inter alia, in *Gian Singh vs. State of Punjab and Anr.* (2012) 10 SCC 303; *Narinder Singh v. State of Punjab*, (2014) 6 SCC 466; and *Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another*, (2017) 9 SCC 641, the prayers in both the petitions are granted.

The proceedings in the criminal case arising out of FIR No.238/2011, under Sections 193/420/468/471/120-B/34 IPC of Police Station Subzi Mandi and FIR No.261/2008, under Sections 419/420 IPC of Police Station Kahsmere Gate against the petitioners in these connected matters are hereby quashed.

The petitions and the applications filed therewith are disposed of in above terms.

R.K.GAUBA, J.

FEBRUARY 06, 2019 vk