

Dinesh Kumar Kukreti And Anr vs Govt. Nct Of Delhi And Anr on 1 February, 2022

Author: Anu Malhotra

Bench: Anu Malhotra

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P. (CRL) 2555/2021, CRL.M.A. 20611/2021 &
20612/2021

DINESH KUMAR KUKRETI AND ANR

Through: Mr.Ram Naresh Yadav, Advoc
versus

GOVT. NCT OF DELHI AND ANR

Through: Mr.Avi Singh, ASC for Stat
Mr.Karan Dhalla, Advocate.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA
ORDER

% 01.02.2022 (through Video Conferencing) So far, no notice of the petition has been issued to the respondent no.2.

The petitioners, vide the present petition have sought the quashing of the FIR no.94/2009 dated 14.07.2009, PS Karol Bagh under Sections 451/341/34 of the Indian Penal Code, 1860 though the FIR is indicated to have been registered under Sections 448/427/506 of the Indian Penal Code, 1860 submitting to the effect that the proceedings in relation to the said FIR are an abuse of the process of law and it has been submitted on behalf of the petitioners that the petitioners are the owners of the premises at T-1864/2 DBG Road, Jhandewala, Near Naaz Cinema, Karol Bagh, New Delhi in relation to which charges have been framed against the petitioners vide order Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:02.02.2022 14:44:26 This file is digitally signed by PS to HMJ ANU MALHOTRA.

dated 04.06.2013 of the Court of the learned MM (D-01), Delhi qua the alleged commission of the offences punishable under Sections 451/341/34 of the Indian Penal Code, 1860 for the alleged commission of offences on 03.11.2008 and on the night of 5/6.11.2008.

As per the charges framed on 04.06.2013, the petitioners are charged with having in furtherance of their common intention house trespassed into the said shop aforementioned belonging to the complainant, Mahender Kumar Chaurasia in order to restrain the complainant from entering the said shop and had also allegedly on the night of 5/6.11.2008 in furtherance of their common intention committed house trespass by entering into the said shop belonging to the complainant

after breaking the lock of the shop of the complainant to restrain the complainant from entering into the said shop and wrongfully restraining the complainant also from entering therein.

It has been submitted on behalf of the petitioners that in a Civil Suit bearing No.1084/2006 which had been filed by the respondent no.2 herein i.e. the complainant of the FIR in question vide order dated 05.09.2006, the application under Order 39 Rule 1 & 2 of the CPC filed by plaintiff to that suit i.e. the respondent no.2 herein seeking the grant of interim injunction for restraining the defendants, their agents, assignees, attorneys, representatives, employees, associates etc. from forcibly dispossessing the plaintiff i.e. the respondent no.2 herein or interfering or obstructing the business activities of the plaintiff as well as the peaceful enjoyment of shop in his occupation bearing no. T-1864/2, Near Naaz Cinema, Jhandewalan, New Delhi, in which proceedings the petitioner nos. 1 & 2 herein are indicated to have Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:02.02.2022 14:44:26 This file is digitally signed by PS to HMJ ANU MALHOTRA.

been arrayed as defendant nos. 1 & 4 to that suit, the said application under Order 39 Rule 1 & 2 of the CPC was dismissed vide order dated 05.09.2006 by the learned Civil Judge, Delhi. It is inter alia submitted on behalf of the petitioners that there was no challenge to the order dated 05.09.2006 by the complainant i.e. the respondent no.2 herein.

Furthermore, it has been submitted on behalf of the petitioners that vide order dated 09.03.2016 in that suit then numbered as CS No.34/2015, the learned Civil Judge-03, Central District, THC, Delhi had declined the application under Order IX Rule 9 of the CPC r/w Section 5 of the Limitation Act, 1963 that had been filed by the respondent no.2 herein i.e. the complainant of the FIR and plaintiff of CS No.34/2015 seeking restoration of that suit which stood dismissed on 13.10.2011.

It has also been submitted on behalf of the petitioner that this order dated 09.03.2016 was challenged by the complainant of the FIR in question i.e. the plaintiff of the civil suit aforementioned vide RCA No.26/2016, which was also declined vide order dated 07.12.2016. It has thus been submitted by the petitioners that the respondent no.2 had no right whatsoever in relation to the premises in question qua which the FIR was lodged and the charges framed qua the alleged commission of the offences punishable under Sections 451/341/34 of the Indian Penal Code, 1860.

On behalf of the State, the learned ASC for the State has pointed out to the effect that the charges in the matter were directed to be framed vide order dated 04.06.2013 by the learned Trial Court and there is not a whisper of an averment in the petition to the effect explaining the latches qua the challenge to the said order.

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Learned counsel for the petitioners in reply to a specific Court query submits that the framing of the charges had in fact been assailed by the revision petition which stood declined.

In reply to a further Court query, it is submitted by the learned counsel for the petitioners that there was no challenge made to the order declining the revision petition filed by the petitioners herein assailing the framing of charges dated 04.06.2013.

Apparently, thus, the present petition is not maintainable and the prayers made in the petition cannot be granted in view of the factum that the charges framed in the year 2013 were assailed by the revision petition and the revision petition in relation thereto was also declined by the Sessions Court and the order therein was not challenged. The petition is thus declined.

Nothing stated hereinabove nor the declining of the present petition shall however amount to any expression on the merits or demerits of the trial in progress qua FIR No.94/2009, PS Karol Bagh in which the charges have been framed qua the alleged commission of the offences punishable under Sections 451/341/34 of the Indian Penal Code, 1860.

Taking into account the factum that the FIR is indicated to have been registered in the year 2009 with charges having been framed in the year 2013, the ends of justice would suffice by directions to the learned Trial Court to expedite the trial in relation to FIR No.94/2009, PS Karol Bagh, New Delhi.

In view thereof, the learned Trial Court seized of the proceedings qua FIR No.94/2009, PS Karol Bagh is directed to conclude the trial and the Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:02.02.2022 14:44:26 This file is digitally signed by PS to HMJ ANU MALHOTRA.

adjudication in relation to the said FIR within a period of one year from today.

Copy of this order be sent to the learned Trial Court through the concerned District & Sessions Judge for compliance.

The petition is disposed of.

ANU MALHOTRA, J FEBRUARY 1, 2022 nc Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:02.02.2022 14:44:26 This file is digitally signed by PS to HMJ ANU MALHOTRA.