

*** HIGH COURT OF DELHI AT NEW DELHI**
+ Crl.M.C.3465/2007 and Crl.M.A.12518/2007(stay)

Order reserved on : 23.05.2008
Date of decision : 27.05.2008

R.M. TUFAIL PETITIONER
! Through : Mr. N. Hariharan, Advocate
Mr. Rohit Sharma, Advocate
Petitioner in person.

Versus

\$ STATE N.C.T. OF DELHI RESPONDENT
^ Through : Mr. Lovkesh Sawhney,
APP for the State.
Complainant in person.

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CORAM:
HON'BLE MS. JUSTICE ARUNA SURESH

- (1) Whether reporters of local paper may be allowed to see the judgment?
- (2) To be referred to the reporter or not?
- (3) Whether the judgment should be reported in the Digest ?

J U D G M E N T

ARUNA SURESH, J.

1. Petitioner R.M. Tufail has filed this petition under Section 482 Code of Criminal Procedure (Cr.P.C.) seeking quashing of FIR No.315/2003, under Section

186/353/323/506 IPC, registered at Police Station Subzi Mandi, Delhi which was registered against the petitioner about an untoward incident which took place in the court of Shri O.P. Saini, the then Additional Sessions Judge, Delhi during the proceedings of case FIR No.688/2000 'Red Fort shoot out case' on the complaint of SI Harender Singh. On 11.11.2003 evidence in Red Fort shoot out case was being recorded and the present petitioner Mr. R.M. Tufail, being an advocate was defending the case of some of the accused persons. During the trial of the case CPUs were produced in the court as case property in the said case. SI Harender Singh found Petitioner pressing the seal. He asked the Petitioner not to do so. As per the allegations in the FIR, the petitioner took it as an accusation and therefore an altercation took place between SI Harender Singh and the petitioner, in this process Petitioner also slapped the complainant. This incident was observed by the trial court and it recorded the same in its order dated 11.11.2003.

2. Petitioner felt sorry for his act before the trial court which fact was recorded by the trial court in its

proceedings dated 11.11.2003. The relevant portion of the order reads as under:-

“During the course of proceeding when the CPU of the case property were being opened in the court, SI Harender Singh pointed out that seal of one of the CPU is being pressed hard by Sh. R.M. Tufail Adv. and advised not to do so. However Sh. Tufail took it as if he being accused of breaking the seal deliberately and thereafter a swift and short altercation took place between the witness and Sh. Tufail and Sh. Tufail thereafter slapped SI Harender. The matter was closed after Sh. Tufail was advised to desist from such actions which are unfortunate and regrettable and Sh. Tufail also admitted that it was an unfortunate incident and he regretted the same and felt sorry. Thereafter trial proceeded smoothly. SI Harender had given a writing in this regard which is placed on file.”

3. Despite Mr. Tufail having regretted about his conduct and felt sorry, SI Harender Singh lodged impugned FIR in the Police Station. The trial court took cognizance of the offence and summoned the Petitioner. After hearing the parties, the learned trial court vide its order dated 15.11.2006 discharged the Petitioner. This order was challenged in revision and Ms. Deepa Sharma,

learned ASJ vide her order dated 30.08.2007 observed that prima facie offence under Sections 186/332/353/506 IPC were made out against the Petitioner and remanded the case back to the trial court to frame charges accordingly and proceed with the trial. This order is under challenge in this petition.

4. I have heard Mr. N. Hariharan, learned counsel for the Petitioner, Mr. Lovkesh Sawhney, APP for the State and have also talked to the Petitioner as well as to the complainant SI Harender Singh in Chamber. Petitioner again regretted his conduct and felt sorry for the untoward incident which took place on 11.11.2003 in the court and also admitted that his conduct on that day was not appropriate and therefore he was fully apologetic about his behaviour towards the complainant. Since, the petitioner has admitted his misconduct and has apologized about his conduct, complainant under these circumstances does not want to proceed with his complaint and seeks permission to withdraw the same.

5. In view of the development which have taken place during the proceedings of this petition and in view of the

fact that the petitioner has apologized about his conduct towards the complainant who has accepted this apology, the petition is allowed so as to maintain amicable relationship between the parties without any illwill for each other.

6. Order dated 30.08.2007 passed by the learned ASJ in Criminal Revision No.5/2007 is hereby set aside and FIR No.315/2003, under Section 186/353/323/506 IPC, registered at Police Station Subzi Mandi, Delhi is hereby quashed.

7. Petition stands disposed of accordingly. Attested copy of the order be sent to the concerned trial court as well as to the State.

**ARUNA SURESH
(JUDGE)**

**May 27, 2008
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