

R-147 & 148

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: May 06, 2015

+ **CRL.M.C. 259/2013**

VIDYUT KESH SINGH

..... Petitioner

Through: Mr. Vivek Sood, Mr. Rajesh
Chhetri, Mr. Rajeev Chhetri &
Ms. Meenakshi Rawat, Advocates

versus

STATE OF NCT OF DELHI & ORS. Respondents

Through: Mr. Navin Sharma, Additional
Public Prosecutor for respondent
No.1-State
Mr. Pradeep Kumar Sharma,
Advocate for respondents No. 1 to
3

+ **CRL.M.C. 3159/2013**

STATE

..... Petitioner

Through: Mr. Navin Sharma, Additional
Public Prosecutor for State

versus

SUDESH PANWAR AND ORS. Respondents

Through: Mr. Pradeep Kumar Sharma,
Advocate for respondents No. 1 to
3
Mr. Vivek Sood, Mr. Rajesh
Chhetri, Mr. Rajeev Chhetri &
Ms. Meenakshi Rawat, Advocates
for respondent No.4

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

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JUDGMENT
(ORAL)

In FIR No. 103/2010, registered at police station IGI Airport, New Delhi, respondent-accused were charged for offences under Sections 323/341/34 of IPC by the trial court but the learned Revisional Court vide impugned order has discharged respondents-accused of the aforesaid offences.

The State and the complainant are aggrieved by the common impugned order and the challenge to the common impugned order by the petitioners is on identical grounds and so, both these petitions were heard together and are being disposed of by this common judgment.

At the hearing, learned Additional Public Prosecutor for petitioner-State and counsel for petitioner submitted that the impugned order is erroneous on the face of it because it is recorded therein that the incident in question took place in the room of Mr. A.D.Dutta, whose statement has not been recorded and he is not a witness to the incident. Impugned order also notes that the statements of three witnesses reveal that the incident in question was fabricated and was a counter blast of FIR No. 102/2010 lodged at the instance of respondent-accused herein.

Attention of this Court was drawn to letter of 25th February, 2010 (*Annexure P-5*) written by Mr. A.D. Dutta to the local S.H.O., on the basis of which FIR of this case was registered. It is submitted on behalf of petitioners that Mr. A.D.Dutta's statement under Section 161 of the Cr.P.C. has been recorded and it is not the prerogative of Revisional Court to pre-judge the entire evidence by appreciating statement of witnesses because whether the case of petitioner-complainant is

corroborated or not, is not a ground to discharge respondent-accused. Thus, quashing of the impugned order is sought in this petition.

Learned counsel for respondents-accused contended that the impugned order is well reasoned and there is no infirmity in it. It is pointed out that the instant FIR is a counter blast to respondents' FIR and at best, the stand of petitioner-complainant is defence in FIR No.102/2010 and so, there is no substance in this petition, which ought to be dismissed.

Upon hearing both the sides and on perusal of impugned order and the material on record, I find that impugned order cannot be sustained as it proceeds on the premise that Mr.A.D.Dutta is not a witness in the FIR case in question, whereas he is. Otherwise also, learned Revisional Court has exceeded its jurisdiction in observing that the version of petitioner-complainant is fabricated. The version of petitioner-complainant is required to be tested at trial. It cannot be said that upon taking up the prosecution case as it is, no offence is made out.

In view of aforesaid, impugned order is hereby quashed and the trial court's order is restored. Let the trial in the FIR in question proceed in accordance with the law. It would be appropriate if the trial of this FIR case as well as FIR No. 102/2010 is assigned to one court to avoid conflicting decisions.

With aforesaid directions, these petitions are disposed of.

(SUNIL GAUR)
JUDGE

MAY 06, 2015

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