

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

Date of Decision: January 19, 2015

+ **CRL.M.C. 5786/2014 & CrI.M.A.19723/2014**

SAURABH SHARMA & ANR Petitioners

Through: Mr. Adarsh Saini, Advocate

versus

STATE (NCT DELHI) & ANR Respondents

Through: Mr. Parveen Bhati, Additional
Public Prosecutor for respondent-
State with SI Pawan

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

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(ORAL)

Petitioners are facing trial for the offences under Sections 365/452/323/506/34 of IPC in FIR No.450/2001 registered at P.S. Rohini, Delhi in the year 2001.

Quashing of the aforesaid FIR and the proceedings emanating therefrom is sought on the ground that the main accused-Manoj Kumar is a proclaimed offender and the co-accused-Kuldeep has already died and the chief examination of complainant does not incriminate petitioners.

Upon notice, learned Additional Public Prosecutor for respondent-State submits, on instructions from SI Pawan, that apart from respondent No.2, deposition of brother of respondent No.2 is yet to be recorded by the trial court and since the recording of the evidence has commenced, therefore, this FIR be not quashed as this FIR is against co-accused-Manoj, who is a proclaimed offender.

Upon hearing and on perusal of the charge framed and the material on record, I find that the offences for which petitioners are facing trial are indeed grave one. Pertinent observations of the Apex Court in '*Gian Singh Vs. State of Punjab & Anr.*' (2012) 10 SCC 303, are as under:-

“58. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all.”

In the facts and circumstances of this case, the FIR against petitioners is not quashed but this petition is disposed of with direction to trial court not to mechanically record the deposition of more than 40 witnesses but to expeditiously record the evidence of material witnesses and thereupon, if it finds that no case is made out against petitioners, then this order will not stand in the way of trial court to give the benefit of doubt to petitioners. It is so said because even if benefit of doubt is given to petitioners by the trial court, still the FIR and proceedings emanating therefrom will continue against co-accused, who is a proclaimed offender.

With the aforesaid direction, this petition and the application are disposed of.

(SUNIL GAUR)
JUDGE

JANUARY 19, 2015

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