

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Order: January 15, 2019

+ **CRL.M.C. 180/2019**
SH PIYUSH DAHIYA & ORS.Petitioners
Through: Mr. Devanand Prasad, Advocate

versus

STATE & ANR.Respondents
Through: Mr. M.S. Oberoi, Additional
Public Prosecutor with SI Vikas
Kumar
Respondent No.2 in person.

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR
ORDER
(ORAL)

Crl.M.A. 767/2018 (Exemption)

Allowed subject to all just exceptions.

Crl.M.A. 768/2018 (delay)

There is delay of 13 days in filing the accompanying petition.

Upon hearing, I find that averments made in the instant application provide sufficient cause to condone the delay occasioned. The application is allowed and the delay stands condoned.

The application is disposed of.

CRL.M.C. 180/2019

Quashing of FIR No. 208/2017, under Sections 498-A/406/34 of IPC registered at police station Dwarka-South, Delhi is sought on the basis of *Mediated Settlement* of 25th July, 2017 (*Annexure P-2*) reached between the parties.

Upon notice, learned Additional Public Prosecutor for respondent-

State submits that respondent No.2, present in the Court is the complainant of FIR in question and she has been identified to be so by SI Vikas Kumar on the basis of identity proof produced by her.

Respondent No.2, present in the Court, submits that the dispute between the parties has been amicably resolved vide aforesaid *Mediated Settlement* of 25th July, 2017 (*Annexure P-2*) and terms thereof have been fully acted upon as today, she has received the amount of ₹5,00,000/- by way of four demand drafts bearing Nos. 541602, 540991, 540989 and 541660 drawn on Punjab National Bank, Sector-7, Dwarka, Delhi and that divorce by mutual consent has been already granted by the family court on 20th September, 2018. Respondent No.2 affirms the contents of aforesaid *Mediated Settlement* of 25th July, 2017 (*Annexure P-2*) and of her affidavit of 9th January, 2019 supporting this petition and submits that now no dispute with petitioners survives and so, the proceedings arising out of the FIR in question be brought to an end.

Supreme Court in *Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Vs. State of Gujarat* (2017) 9 SCC 641 has reiterated the parameters for exercising inherent jurisdiction under Section 482 Cr.P.C. for quashing of FIR / criminal complaint, which are as under:-

“16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:

16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.

16.2. The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the

purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

16.5. The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated.

16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants,

the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

16.10. There is yet an exception to the principle set out in propositions 16.8. and 16.9. above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”

Since the subject matter of this FIR is essentially matrimonial, which now stands mutually and amicably settled between parties, therefore, continuance of proceedings arising out of the FIR in question would be an exercise in futility.

Accordingly, this petition is allowed subject to cost of ₹10,000/- to be deposited by petitioners with *Prime Minister's National Relief Fund* within four weeks from today and placing on record the receipt of deposit of cost within two weeks thereafter. Upon placing on record the receipt of cost, FIR No. 208/2017, under Sections 498-A/406/34 of *IPC* registered at police station Dwarka-South, Delhi and the proceedings emanating therefrom shall stand quashed *qua* petitioners.

This petition is accordingly disposed of.

Dasti.

**(SUNIL GAUR)
JUDGE**

JANUARY 15, 2019

v