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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 27th July, 2018

+ CRL.M.C. 3685/2018 and Crl.M.A.28581/2018

ROSHAN LAL

..... Petitioner

Through: Mr. Yatinder Lal, Advocate
with Mr. G.S. Singh, Advocate
with petitioner in person.

versus

THE STATE OF NCT OF DELHI & ANR. Respondents

Through: Mr. Mukesh Kumar, APP for
the State
Respondent No.2 in person.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

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ORDER (ORAL)

1. This petition under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) prays for quashing of the proceedings arising out of First Information Report (FIR) No.358/2015, under Sections 354A/354D/509 of the Indian Penal Code, 1860 (IPC) of Police Station Vivek Vihar, on the ground that the first informant (second respondent herein) has agreed to settle the dispute. Reliance is placed on *Gian Singh vs. State of Punjab & Anr.*, 2012 (9) SCALE, 257, and *Narinder Singh & Ors. vs. State of Punjab & Anr.*, (2014) 6 SCC 466.

2. A perusal of the FIR which was lodged on 16.04.2015 shows that the first informant is a married woman, who was constrained to

look for gainful employment since her husband was running poor health, unable to earn to support the family which consists of aged mother-in-law and a toddler daughter. The first informant, with the help of the petitioner, came to be engaged in a job with a private company where the petitioner was also employed part-time in the capacity of supervisor. In the FIR, the first informant has narrated the series of incidents wherein the petitioner would make indecent proposals to her, make unwanted physical contact and advances with explicit sexual overtures and passing remarks which were sexually coloured, such acts amounting to sexual harassment within the meaning of penal clause contained in Section 354A IPC and also following her around or making attempts to contact her without any reasonable cause or justification and to her annoyance. The allegations in the FIR also indicate assault on her person, without her consent, knowing fully well that thereby her modesty was being outraged, it being also an offence punishable under Section 354 IPC.

3. Mr. Mukesh Kumar, the learned Additional Public Prosecutor submitted that the investigation has since been completed and by report under Section 173 Cr.P.C. the prosecution of the petitioner has been sought.

4. In the wake of certain serious crimes involving sexual assaults which had given rise to a public outcry, the legislature in recent past amended the Indian Penal Code, 1860 to bring on the statute book the new offences, *inter alia*, of sexual harassment, stalking, *etc.* Such offences, as indeed the offence of assault with intent to outrage

modesty of a woman reflect, to say the least, mental depravity. A bench of three Hon'ble Judges of the Supreme Court in *Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another*, (2017) 9 SCC 641, has observed that in exercise of the power under Section 482 Cr.P.C. and while dealing with the plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence(s) and further that certain offences, including those that involve “*mental depravity*” cannot appropriately be quashed, though the victim or the family of the victim has settled the dispute, inasmuch as such offences are not private in nature but have serious impact upon the society, the decision to continue with the trial in such cases being founded on the overriding element of public interest in punishing the offenders.

5. Assuming the allegations in the FIR are correct (the truth or otherwise of the case for prosecution, after all, can be tested only at the trial), the conduct of the petitioner reflects gross mental depravity. He was trying to take undue advantage of a helpless and hapless woman, who was constrained to seek his help and come for employment to earn so that she could support her ailing husband and children. Women and girls cannot be allowed to become easy game or prey for lecherous kind in civilized society. In reporting the above conduct of the petitioner, the first informant had shown courage. She having done her duty as an awakened citizen cannot now put a lid on the matter. The case goes beyond her personal grouse. Allowing such charges to be quashed only because the petitioner may have

apologised to her would not only be trivializing the issue but also set a bad precedent – a precedent that would be in the teeth of the spirit of the ruling of Supreme Court in *Parbatbhai Aahir* (supra).

6. Having regard to the above, this court declines to entertain the prayer in the petition at hand. The petition and the application filed therewith are dismissed.

JULY 27, 2018

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R.K.GAUBA, J.

