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

Date of decision: 16.12.2019

+ CRL.M.C. 6277/2019 & CRL.M.A. 42029/2019

CHETAN PACHOURI Petitioner
Through Mr. Pradeep Rana, Adv.

versus

STATE & ANR. Respondents
Through Mr. Hirein Sharma, APP for State
WSI Sarita, BHD Nagar

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (O R A L)

1. Vide the present petition, the petitioner seeks direction thereby quashing FIR No. 126/2016 dated 27.02.2016, registered at Police Station – Mundka, and all other proceedings emanating therefrom.
2. Notice issued.
3. Notice is accepted by learned APP for the State.
4. With the consent of the counsel for the parties, the present petition is taken up for final disposal.
5. The petitioner no.1 and respondent no.2 got married on 09.12.2015 as per Hindu rites and rituals. Due to extreme incompatibilities between the

petitioner and respondent no.2, they started living separately from 20.02.2016.

6. The present petition is filed on the ground that the parties have settled their disputes and the respondent no.2 has no objection if the present petition is allowed.

7. Respondent no.2 is personally present in Court and she has been identified by WSI Sarita/IO and submits that matter has been settled and she does not wish to prosecute the matter any further.

8. The petitioner and respondent no.2 have entered into an amicable settlement before Family Court, North/West, Rohini, Counselling Cell vide settlement deed dated 22.08.2019.

9. The total settlement amount is ₹2,25,000/- (Rupees Two Lakhs Twenty Five Thousand only). It is submitted that the respondent No. 2 has already received an amount of ₹1,50,000 (Rupees One Lakh Fifty Thousand only). A demand draft bearing No.392543 dated 05.12.2019 for the balance amount of ₹75,000/- (Rupees Seventy Five Thousand only) is handed over to the respondent No. 2 today in the Court.

10. It is not in dispute that heinous and serious offences such as murder, rape, NDPS and dacoity etc. cannot be quashed despite the fact that the

victim or the family of the victim have settled the dispute.

11. It is also not in dispute that such offences are, truly speaking, not private in nature but have a serious impact upon society. But at the same time, quashing of the FIR, in such cases the Court has to see whether actually crime has taken place or due to some other malafide purpose or intention, the complainant has been made which subsequently, culminated into an FIR. If court comes to the conclusion, as in the present petition, that in fact the rape has not been committed by the accused in the case, in my considered opinion, there is no bar to quash the FIR even in case of rape or other heinous offences. Similar view has been taken by this Court in *Danish Ali vs. State & Anr.* in Crl.M.C.1727/2019 decided on 26.11.2019.

12. The fact remains that in the present case the offence of rape has not been committed. Had rape been committed the directions issued by the Hon'ble Supreme Court in *ParbatBhai Aahir and Ors. Vs. State of Gujrat and Ors. AIR 2017 SC 4843* whereby it was observed that the FIR should not be quashed in case of rape as it is an heinous offence, would come in the way. However, in the present case, marriage had already taken place and if the FIR is not quashed in the present case, it will cause grave injustice to the petitioner and the prosecutrix/respondent no.2 and their respective families.

Therefore, there is no reason to direct the petitioner to face the trial and await the result of the trial.

13. For the reasons afore-recorded, the FIR No. 126/2016 dated 27.02.2016, registered at Police Station – Mundka and consequent proceedings emanating therefrom are quashed.

14. The petition is allowed accordingly.

15. Order dasti.

16. Pending application stands disposed of.

(SURESH KUMAR KAIT)
JUDGE

DECEMBER 16, 2019

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