

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

Date of Order: March 08, 2019

+ CRL.M.C. 1284/2019

HIFZUR REHMAN & ORS.

..... Petitioners

Through: Mr. Ramesh & Mr. V.S.Chauhan,
Advocates

Versus

THE STATE GOVT OF NCT OF DELHI & ANR. .. Respondents

Through: Mr. M.S.Oberoi, Additional Public
Prosecutor for State with ASI
Parveen Kumar
Mr. A.A.Khan, Advocate with
respondent No. 2 in person.

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

Crl.M.A. 5094/2019

Delay of 25 days in re-filing the accompanying petition is
condoned for the reasons stated in the application.

Application is disposed of.

CRL.M.C. 1284/2019 & Crl.M.As. 5092-93/2019

Quashing of FIR No. 43/2012, under Sections 498-A/406/34 of
IPC and Section 4 of *Dowry Prohibition Act, 1961*, registered at police
station Khajuri Khas, Delhi is sought on the basis of *Mediated Settlement*
of 27th April, 2017 reached between the parties.

Counsel for petitioner submits that the mediated settlement has

been acted upon and a sum of ₹10,000/- would be paid by petitioner-husband to respondent-wife at the time of divorce in accordance with the law.

Upon notice, learned Additional Public Prosecutor for respondent No.1-State, submits that respondent No.2, present in the Court, is the complainant/ first-informant of FIR in question and she has been identified to be so, by ASI Parveen 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, as today she has received an amount of ₹50,000/- from petitioner. She affirms the contents of *Mediated Settlement* of 27th April, 2017 and of her affidavit of 2nd August, 2018 filed in support of this petition and submits that now no dispute with petitioner 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:-

“16.7. 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;”

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 petitioner-husband paying a sum of ₹10,000/- to second respondent-wife at the time of divorce as per law, FIR No. 43/2012, under Sections 498-A/406/34 of IPC and Section 4 of *Dowry Prohibition Act, 1961*, registered at police station Khajuri Khas, Delhi and the proceedings emanating therefrom are hereby quashed with the rider that if either of the parties do not abide by the undertaking, then the aggrieved party can approach this Court for revocation of this order.

This petition and applications are accordingly disposed of.

Dasti.

(SUNIL GAUR)
JUDGE

MARCH 08, 2019

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