

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Order: January 14, 2019
+ CRL.M.C. 129/2019 & CrI.M.A. 598/2019

JAMAL MALIK @ JAMAL BABA Petitioner
Through: Mr. Sher Singh, Advocate

Versus

STATE & ANR. Respondents
Through: Mr. Izhar Ahmed, Additional
Public Prosecutor for respondent-State with SI
Surender Singh
Mr. Manmohan Goyal, Advocate with
respondent No.2 in person

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

Quashing of FIR No.376/2013, under Sections 498-A/406/34 of IPC, registered at police station Tilak Nagar, Delhi is sought on the basis of Settlement of 26th November, 2014 arrived at Family Court, Tis Hazari Courts, Delhi (*Annexure -9*).

Notice.

Mr. Izhar Ahmed, learned Additional Public Prosecutor for respondent-State accepts notice and submits that respondent No.2, present in the Court, is complainant/first-informant of the FIR in question and she has been identified to be so by SI Surender Singh on the basis of identity proof produced by her as well as by her counsel.

Respondent No.2, present in the Court, submits that the dispute between the parties has been amicably resolved vide Settlement of 26th

November, 2014 (*Annexure-9*) and terms thereof have been fully acted upon, as today she has received the balance amount of ₹50,000/- in cash. Respondents No.2 affirms the contents of her affidavit of 7th January, 2019 filed in support of this petition and submits that subject to petitioner not claiming custody and visitation rights in respect of child of the parties, she has no objection to quashing of FIR in question.

Learned counsel for petitioner submits that petitioner will not claiming custody/visitation rights in respect of child of the parties.

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 ₹50,000/- to be deposited by petitioners with *Prime Minister's National Relief Fund* within four weeks from today and upon placing on record the receipt of deposit of cost within two weeks thereafter, FIR No.376/2013, under Sections 498-A/406/34 of IPC, registered at police station Tilak Nagar, Delhi and the proceedings emanating therefrom shall stand quashed.

This petition and application are accordingly disposed of.

Dasti.

(SUNIL GAUR)
JUDGE

JANUARY 14, 2019

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