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

Date of Order: January 29, 2019

\+ **CRL.M.C. 460/2019 & CRL.M.As. 1992-94/2019**

DEEPAK SHARMA & ORS .....Petitioners

Through: Mr. D.K. Sharma, Advocate

versus

THE STATE (NCT OF DELHI) & ANR .....Respondents

Through: Mr. M.S.Oberoi, Additional Public Prosecutor for respondent-State
Mr. Amit Kumar, Advocate with respondent No. 2 in person

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

O R D E R
(ORAL)

Quashing of FIR No.34/2013, under Sections 498-A/406/34 of IPC, registered at police station Shakarpur, Delhi is sought on the basis of *Mediated Settlement* of 24th December, 2016 *(Annexure P-4)* arrived at Delhi Mediation Centre, Karkardooma Courts, Delhi.

Upon notice, Mr. M.S.Oberoi, learned Additional Public Prosecutor for respondent-State 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 her counsel on the basis of identity proof produced by her.

Respondent No. 2, present in the Court, submits that in case

petitioners sell the subject property, then they should obtain the permission of the Court. Learned counsel for petitioners on instructions submits that it shall be so done.

Respondent No.2, submits that the dispute between the parties has been amicably resolved vide aforesaid Mediated Settlement of 24th December, 2016 *(Annexure P-4)* and terms thereof have been fully acted upon and she affirms the contents of aforesaid Mediated Settlement of 24th December, 2016 *(Annexure P-4)* 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. Upon placing on record the receipt of cost, FIR No.34/2013, under Sections 498-A/406/34 of IPC registered at police station Shakarpur, Delhi and the proceedings emanating therefrom shall stand quashed *qua* petitioners. It is made clear in case petitioners intend to sell the subject property, then they shall obtain the permission from the concerned civil court prior to selling the subject property.

With aforesaid directions, this petition and the applications are accordingly disposed of.

(SUNIL GAUR)
JUDGE

JANUARY 29, 2019
v