

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Order: February 01, 2019

+ CRL.M.C. 569/2019 and CRL.M.As. 2387/2019, 2388/2019
ASHU KHAN Petitioner
Through: Mr. Faran Ahmed and Mr.
Devendra Kumar, Advocates

Versus
STATE (GNCT OF DELHI) & ANR Respondents
Through: Mr. M.S. Oberoi, Additional
Public Prosecutor for State
Mr. Dhiraj Pandey, Advocate for
Respondent No. 2

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

Petitioner seeks quashing of FIR No. 283/2011, under Sections 419/420/376/120B of IPC, registered at police station Burari, Delhi on the basis of observations made by Supreme Court in its order of 20th January, 2015 in Criminal Appeal No. 146/2015 of petitioner and affidavit dated 25th January, 2019 of prosecutrix/respondent No. 2.

It is pointed out by petitioner's counsel that Supreme Court has granted anticipatory bail to petitioner while observing that petitioner and prosecutrix/respondent No. 2 are happily married and are living together. It is submitted that they have a child aged about 7 years. It is also stated that the matter is coming up before trial court for recording of evidence of the prosecutrix.

Supreme Court in '*Parbatbhai Bhimsinhbhai Vs. State of Gujarat*' (2017) 9 SCC 641 has cautioned the Courts not to quash the FIR in cases

where serious and heinous offences have been committed, while elaborating that in offences of murder, rape and dacoity etc. FIRs are not to be quashed.

The pertinent observation made by Supreme Court in ‘*Parbatbhai Bhimsinhbhai Vs. State of Gujarat*’ is as under:-

“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”.

Since the petitioner is facing trial for a serious and heinous offence of rape, therefore, the prosecutrix needs to appear before the trial court and to explain as to in what circumstances she had levelled such grave allegation against petitioner and as to how she is now taking altogether different stand.

In the considered opinion of this Court, it is not a fit case for quashing of FIR in question. This petition and applications are accordingly dismissed while not commenting upon the merits of the case.

(SUNIL GAUR)
JUDGE

FEBRUARY 01, 2019
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