

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

Date of Order: May 28, 2019

+ **CRL.M.C. 579/2019 & CrI.M.A. 2421/2019**

PRASHANT BHARTIYA

..... Petitioner

Through: Mr. Pardeep Gupta, Mr. Parinav Gupta, Ms. Almina, Ms. Mansi Gupta & Mr. Moazzam Ali, Advocates

Versus

STATE & ANR.

.....Respondents

Through: Mr. M.P. Singh, Additional Public Prosecutor for respondent No.1-State

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

Quashing of FIR No. 616/2018, under Section 376 IPC, registered at police station Vijay Vihar, Rohini, Delhi is sought on the basis of Compromise Deed of 13th June, 2017 (*Annexure P-3*).

Petitioner's counsel submits that there are no allegations of forced sex with the prosecutrix. Attention of this Court is drawn to this court's order of 12th December, 2018 in Bail Appln. 2408/2018 (*Annexure P-5*) to point out that prosecutrix was not divorced from her second husband and so, there can be no legal marriage, much less the promise of marriage. It is submitted by petitioner's counsel that the FIR does not

disclose that petitioner had forcibly committed rape upon the prosecutrix. Reliance is placed upon Supreme Court's decision in *Prashant Bharti Vs. State (NCT of Delh)* (2013) 9 SCC 293 and another order of 24th March, 2017 of this Court in CrI.M.C. 2454/2016, *Mohit Nagar Vs. State & Anr.* (Annexure P-7) in support of above submissions.

On the other hand, learned Additional Public Prosecutor for respondent-State refutes the aforesaid stand taken on behalf of petitioner and reliance is placed upon a later decision of Supreme Court in *Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Vs. State of Gujarat* (2017) 9 SCC 641 to submit that this petition deserves dismissal.

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:-

“16.6. 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.”

After hearing both the sides and upon perusal of FIR of this case, Compromise Deed, material on record and decisions cited, I find that prosecutrix has levelled allegations of rape and of giving threat to her life

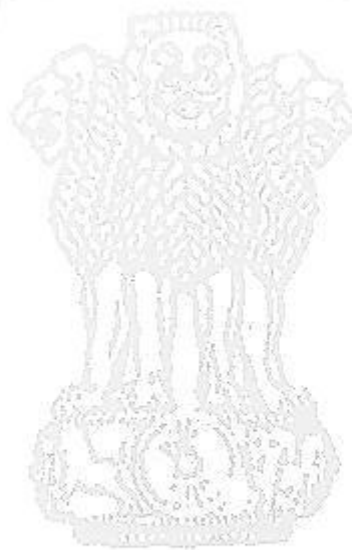
in her complaint. Upon bare reading of FIR of this case and in the light of the parameters reiterated by Supreme Court in *Parbatbhai Aahir (Supra)*, it can be *prima facie* said that the offence committed by petitioner is serious one and it does not call for quashing of the FIR for the offence of rape on the basis of aforesaid Compromise Deed.

Accordingly, this petition and application are dismissed while refraining to comment upon the merits of the case, lest it may prejudice petitioner at trial.

MAY 28, 2019

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**(SUNIL GAUR)
JUDGE**



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