

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

Date of Order: February 20, 2019

+ **CRL.M.C. 960/2019**

TARUN GULATI & ANRPetitioners

Through: Mr. Rohit K. Nagpal, Advocate

versus

STATE & ANR.Respondents

Through: Dr. M.P. Singh, Additional Public
Prosecutor with Inspector
Kanhaiya Lal Yadav
Respondent No.2 in person

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

CRL.M.A. 3822/2018 (Exemption)

Allowed subject to all just exceptions.

CRL.M.A. 3823/2019 (delay)

There is delay of 12 days in re-filing the accompanying petition.

For the reasons stated in the application, it is allowed and the delay is condoned.

The application is disposed of.

CRL.M.C. 960/2019

Quashing of FIR No.156/2013, under Sections 66/66C of *Information Technology Act, 2000* registered at Police Station E.O.W., Delhi is sought on the basis of *Memorandum of Understanding* of 3rd

March, 2017 (*Annexure P-3*) and on the ground that misunderstanding, which led to registration of the FIR in question, now stands cleared between the parties.

Upon notice, 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 Inspector Kanhaiya Lal Yadav 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 vide aforesaid *Memorandum of Understanding* of 3rd March, 2017 (*Annexure P-3*) and the terms thereof have been fully acted upon and that the misunderstanding, which led to the FIR in question, now stands cleared between the parties. Respondent No.2 affirms the contents of aforesaid *Memorandum of Understanding* of 3rd March, 2017 (*Annexure P-3*) and of her affidavit of 17th November, 2018 supporting this petition and submits that petitioners be restrained from using/creating any ID in the name of respondent No. 2 and from using it.

At this stage, petitioners' counsel, on instructions, submits that no ID in the name of respondent No. 2 would be created and now, it will not be used in any way whatsoever. To avoid any such possibility in future, an undertaking to this effect by way of affidavit be placed on record by petitioners within a period of four weeks from today and its copy be supplied to respondent No. 2 as well as to Investigating Officer of this case. Let respondent No. 2 create a fresh ID to access her account with

Income Tax Department.

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 dispute between the parties has been amicably resolved, therefore, continuance of proceedings arising out of the FIR in question would be an exercise in futility.

Accordingly, this petition is allowed subject to costs of ₹50,000/- to be deposited by petitioners with *Prime Minister's National Relief Fund* within four weeks from today. Upon placing on record the receipt of costs, and tendering its copy to the Investigating Officer of this case, FIR No.156/2013, under Sections 66/66C of *Information Technology Act*,

2000 registered at Police Station E.O.W., Delhi and the proceedings emanating therefrom shall stand quashed *qua* petitioners.

This petition is accordingly disposed of.

(SUNIL GAUR)
JUDGE

FEBRAURY 20, 2019

v

