

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

Date of Order: February 26, 2019

+ CRL.M.C. 1085/2019 & CrI.M.A. 4294/2019

AMAR & ORS.

..... Petitioners

Through: Mr. Atul Mathur, Advocate with
petitioners in person

Versus

THE STATE & ANR.

..... Respondents

Through: Mr. M.P.Singh, Additional Public
Prosecutor for respondent No.1-
State with SI Pradeep Kumar
Mr. Parul Rohtagi, Advocate with
respondent No.2 in person

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

Quashing of FIR No. 953/2014, under Sections 498-A/406/34 of IPC, registered at police station Model Town, Delhi is sought on the basis of mediated settlement of 1st February, 2018 (*Annexure-C*) reached between the parties.

Mr. M.P.Singh, Additional Public Prosecutor for respondent No.1-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 her counsel as well as by SI Pradeep Kumar 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 in terms of mediated settlement of 1st February, 2018 (*Annexure-C*) and in terms thereof, today she has received amount of ₹1,50,000/-by way of demand draft bearing No. 203826, dated 25th February, 2019, drawn on Kotak Mahindra Bank, Branch Vishal Enclave, Delhi from petitioners and now no dispute with petitioners survives, except that petitioner-*husband* has to file second motion petition for obtaining decree of divorce.

At this stage, counsel for petitioners submits that second motion petition for obtaining decree of divorce would be filed by petitioner-*husband* within four weeks from today.

Respondent No.2 affirms the contents of her affidavit of 23rd October, 2018 supporting this petition and submits that 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:-

“16.7. 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 subject matter of this FIR is essentially matrimonial, which now stands mutually and amicably settled between the parties, therefore, continuance of proceedings arising out of the FIR in question would be an exercise in futility.

Accordingly, FIR No. 953/2014, under Sections 498-A/406/34 of IPC, registered at police station Model Town, Delhi and the proceedings emanating therefrom are hereby quashed with the rider that in case petitioner-*husband* does not file petition under Section 13 B(2) of Hindu Marriage Act, 1955 within four weeks, then second respondent will be at liberty to get this order revoked.

This petition and application are accordingly disposed of.

FEBRUARY 26, 2019

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**(SUNIL GAUR)
JUDGE**

भारतमेव जयते