

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

Date of Order: May 16, 2019

+ **CRL.M.C. 2629/2019 & Crl.M.A. 10527-28/2019**

RAKESH KUMAR & ANR.

.....Petitioners

Through: Mr. Rajan Joshi, Advocate

Versus

STATE & ORS.

.....Respondents

Through: Mr. Izhar Ahmed, Additional
Public Prosecutor for State with
WSI Rishali Yadav
Respondent No.2 in person.

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

Quashing of FIR No. 104/2013, under Sections 498-A/406/34 of IPC, registered at Police Station Tilak Nagar, New Delhi is sought on the basis of affidavit of 14th January, 2019 of respondent No.2.

Upon notice, learned Additional Public Prosecutor for respondent No.1-State submits that respondent No.2, present in the Court, is the complainant/first-informant of FIR in question and she has been identified to be so, by WSI Rishali 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 and she is living happily with petitioner-husband since November, 2018. She affirms the contents

of her affidavit of 14th January, 2019 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 proceedings, 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 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 costs of ₹10,000/- to be deposited by petitioners with *Prime Minister's National Relief Fund* within a week from today. Upon placing on record the proof of deposit of

costs within a week thereafter and handing over its copy to the Investigating Officer, FIR No. 104/2013, under Sections 498-A/406/34 of IPC, registered at Police Station Tilak Nagar, New Delhi and the proceedings emanating therefrom shall stand quashed qua petitioners. However, it is made clear that if the marriage of respondent No.2 with petitioner-husband again runs into rough weather, then this order will not stand in her way to have recourse to law.

This petition and applications are accordingly disposed of.

Dasti.

(SUNIL GAUR)
JUDGE

MAY 16, 2019

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