

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

Date of Order: May 31, 2019

+ **CRL.M.C. 3061/2019**

KAUSHAL KUMAR NARULA & ANRPetitioners
Through: Mr.V.V.R.Rao, Advocate

Versus

THE STATE & ANR.Respondents
Through: Mr.Izhar Ahmed, Additional
Public Prosecutor for State with
ASI Vijay Pal Singh
Respondent No.2 in person.

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR
ORDER
(ORAL)

Crl.M.A.12306/2019

Exemption allowed subject to all just exceptions.

Application is disposed of.

Crl.M.A.12307/2019

There is a delay of 33 days in re-filing the petition.

For the reasons stated in the application, the delay of 33 days in re-filing the petition is condoned

Application is disposed of.

CRL.M.C. 3061/2019

1. Quashing of FIR No.36/2008, under Sections 498-A/406/34 of IPC, registered at police station CAW Cell, Nanak Pura, Delhi is sought on the basis of Mediated Settlement of 22nd January, 2018 (*Annexure C*).

2. Upon notice, Izhar Ahmed, learned Additional Public Prosecutor for respondent-State submits that respondent No.2, present in the Court, is complainant of the FIR in question and she has been identified to be so, by ASI Vijay Pal Singh, on the basis of identity proof produced by her.

3. Respondent No.2, present in the Court, submits that the dispute between the parties has been amicably resolved vide aforesaid Mediated Settlement of 22nd January, 2018 (*Annexure C*) and terms thereof have been fully acted upon as today, she has received the balance settled amount of ₹2,00,000/- by way Banker's Cheque No.811191 dated 24th April, 2019 drawn on Corporation Bank, Sikanderpur Branch, Delhi. Respondent No.2 affirms the contents of aforesaid Mediated Settlement of 22nd January, 2018 (*Annexure C*) and of her affidavit of 27th March, 2019 supporting this petition 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.

4. 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.”

5. 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.

6. Accordingly, FIR No.36/2008, under Sections 498-A/406/34 of IPC, registered at police station CAW Cell, Nanak Pura, Delhi and the proceedings emanating therefrom shall stand quashed qua petitioners.

7. It is made clear that if for any reason the Banker's Cheque handed over to respondent No.2 is not honoured, then petitioner-husband shall get it replaced within a week. If it is not so done, then second respondent will get this order revoked.

8. This petition is accordingly disposed of.

Dasti.

(SUNIL GAUR)
JUDGE

MAY 31, 2019

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