

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Order: July 11, 2019

+ **CRL.M.C. 3278/2019**
KUNAL BERANI & ORS. Petitioners
Through: Mr. Surjit S.Mishra & Mr. S.Karan
Singh, Advocates

Versus

THE STATE & ANR. Respondents
Through: Mr. Izhar Ahmed, Additional
Public Prosecutor for respondent
No.1-State with ASI Rajbir
Ms. Surjeet Kaur, Advocate with
respondent No.2 in person

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

Crl.M.A.30714/2019

There is delay of 29 days in re-filing the accompanying petition.

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

Application is disposed of.

CRL.M.C. 3278/2019 & Crl.M.A. 30713/2019

Quashing of FIR No. 211/2017, under Sections 498A/406/34 of IPC, registered at Police Station Patel Nagar, New Delhi is sought on the basis of settlement of 10th August, 2018 recorded before the Family Courts (West) and affidavit of 16th March, 2019 of respondent No.2/complainant and on the ground that the 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 Court, is the complainant of FIR in question and she has been identified to be so, by ASI Rajbir, on the basis of identity proof produced by her.

Respondent No. 2, present in the Court, submits that settlement of 10th August, 2018 recorded before the Family Courts has been acted upon. However, she submits that she has incurred an expense of ₹50,000/- to get her passport (*which was lost by petitioners*) re-issued from Mumbai. She affirms the contents of her affidavit of 16th March, 2019 supporting this petition and submits that subject to petitioners putting to terms for losing her passport, 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, I find that 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 paid by petitioners to second respondent towards re-issuance of her lost passport. At this stage, counsel for petitioners submits that amount of ₹50,000/- shall be remitted by petitioner No.1-*husband* into the bank account of second respondent through RTGS within two weeks.

Upon placing on record the proof of deposit of ₹50,000/- in the bank account of second respondent and handing over its copy to the Investigating Officer, FIR No. 211/2017, under Sections 498A/406/34 of IPC, registered at Police Station Patel Nagar, New Delhi and the proceedings emanating therefrom shall stand quashed qua petitioners. It is made clear that if amount of ₹50,000/- is not deposited by petitioner No.1- *husband* in the bank account of second respondent through RTGS within two weeks, then respondent No.2 shall be at liberty to get this order revoked.

This petition and application are accordingly disposed of.

Dasti.

(SUNIL GAUR)
JUDGE

JULY 11, 2019

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