

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

+ **CrI. M.C. 5365/2019**

Date of Decision: 16.12.2019

SUNNY Petitioner

Through: Mr. Saurav Seth, Adv.
versus

STATE & ORS. Respondent

Through: Mr. Amit Ahlawat, APP for the State
with ASI Ramesh Kumar,
P.S.Malviya Nagar.
Mr. Manish Chaudhary, Adv. for R-2
and 3.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

RAJNISH BHATNAGAR, J. (Oral)

1. Petitioner, by virtue of this petition, is seeking quashing of FIR No. 1407/2014 under Section 363 IPC, registered at P.S.Malviya Nagar, and the proceedings emanating therefrom.

2. In brief, the facts of the case are that petitioner and respondent no.2 were residing in neighbourhood in Balmiki Camp, Begumpur, Malviya Nagar, New Delhi, and over a period of time, they developed love and affection and solemnized their marriage on 31.10.2014. The father of respondent no.2 filed a complaint about missing of respondent no.2 wherein he has stated that in the morning of 31.10.2014, his daughter i.e respondent no.2 had left the house at 8.00 am to fetch milk and had not returned till 11.30 am. In the complaint, he has further stated that he had searched for his daughter but she could not be found so he laid suspicion on the

petitioner.

3. Respondent no.2 when came to know about the registration of FIR against the petitioner, she along with her relative appeared before the IO who got recorded her statement under Section 164 Cr.P.C on 31.3.2018, and respondent no.2 was also produced before the CWC and her interim custody was granted to one of her relatives.

4. It is submitted by the counsel for the petitioner that respondent no.2 has married the petitioner with her free will. He further urged that out of this wedlock three girl children have taken birth. He further submits that in the statement under Section 164 Cr.P.C the respondent no.2 has not stated a single allegation against the petitioner.

5. On the other hand, learned APP for the State has argued that the petitioner was a minor on the date of the incident and the allegations are grave and serious in nature.

6. The **Hon'ble Supreme Court in the case of *Parbatbhai Aahir & Ors. Vs. State of Gujarat & Anr. (Criminal Appeal No. 1723 of 2017***, after discussing various precedents on the subject summarized, the following broad principles in relation to Section 482 for quashing FIR :-

“(i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognizes and preserves powers which inhere in the High Court;

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to

quash under Section 482 is attracted even if the offence is non-compoundable.

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim has settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(vii) 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 in so far as the exercise of the inherent power to quash is concerned;

(viii) 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;

(ix) 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; and

(x) There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanor. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”

7. After giving due consideration to all the aspects of the matter, this Court is of the opinion that this petition deserves to be allowed. The victim in this case has married with the petitioner and she has three children and now she wants to live with her husband. She has made the statement that she went with the petitioner with her consent and her statement was not made under any force, coercion or undue influence.

8. In view of the facts and circumstances of the case, no useful purpose will be served by keeping the case pending and it will be nothing but abuse of the process of law. Accordingly, this petition is allowed and FIR No. 1407/2014 under Section 363 IPC, registered at P.S.Malviya Nagar, and the proceedings emanating therefrom are hereby stand quashed.

RAJNISH BHATNAGAR, J

DECEMBER 16, 2019/ib