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

Date of decision: 04.03.2020

+ CRL.M.C. 390/2020

NASEEM

..... Petitioner

Through Mr. Yugal Kishore, Adv.

versus

THE STATE & ANR

..... Respondents

Through Mr. Izhar Ahmed, APP for State
Mr. Varun Kumar, Adv. for R-2 with
respondent no.2 in person

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (O R A L)

CRL. M.A. 1632/2020

1. In view of the reasons stated in the present application, delay of 37 days in re-filing the petition is condoned.
2. Application is, accordingly, allowed and disposed of.

CRL.M.C. 390/2020 & CRL.M.A. 1631/2020

3. Vide the present petition, petitioner seeks direction thereby for quashing of FIR No. 632/2018 dated 22.11.2018, registered at PS Bhalswa Dairy and all other proceedings arising therefrom.
4. Notice issued.

5. Notice is accepted by learned APP for State and by counsel for respondent no.2 and with the consent of counsel for parties, the present petition is taken up for final disposal.

6. The present petition is filed on the ground that parties have settled their disputes and respondent no.2 has no objection if the present petition is allowed.

7. Complainant/Respondent no.2 is personally present in Court with her mother and she has been identified by W/SI Priyanka/IO and submits that matter has been settled and she does not wish to prosecute the matter any further.

8. It is not in dispute that heinous and serious offences such as murder, rape, NDPS and dacoity etc. cannot be quashed despite the fact that the victim or the family of the victim have settled the dispute.

9. It is also not in dispute that such offences are, truly speaking, not private in nature but have a serious impact upon society. But at the same time, quashing of the FIR, in such cases the Court has to see whether actually crime has taken place or due to some other malafide purpose or intention, the complaint has been made which subsequently, culminated into an FIR. If court comes to the conclusion, as in the present petition, that in

fact the rape has not been committed by the accused in the case, in my considered opinion, there is no bar to quash the FIR even in case of rape or other heinous offences. Similar view has been taken by this Court in Danish Ali vs. State & Anr. in Crl.M.C.1727/2019 decided on 26.11.2019.

10. In the present case, as per the submissions made by respondent No.2 before this Court, some altercation took place between her mother and father of the petitioner and due to this reason, the present FIR was registered against the petitioner. Father of petitioner and mother of respondent No.2 have entered into an amicable settlement vide settlement deed dated 22.10.2019 whereby they have resolved all their disputes.

11. Fact remains that in the present case the offence of rape has not been committed. Had rape been committed the directions issued by the Hon'ble Supreme Court in *ParbatBhai Aahir and Ors. Vs. State of Gujrat and Ors. AIR 2017 SC 4843* whereby it was observed that the FIR should not be quashed in case of rape as it is a heinous offence, would come in the way.

12. Taking into account the aforesaid facts, this Court is inclined to quash FIR as no useful purpose would be served in prosecuting petitioner any further.

13. For the reasons afore-recorded, FIR No. 632/2018 dated 22.11.2018 ,

registered at PS Bhalswa Dairy and consequent proceedings emanating therefrom are quashed.

14. The petition is, accordingly, allowed and disposed of.

15. Pending application stands disposed of.

16. Order dasti under signatures of the Court Master.

(SURESH KUMAR KAIT)
JUDGE

MARCH 04, 2020/ab

