

(2019) 03 DEL CK 0138

In the Delhi High Court

Case No : Criminal Miscellaneous Case No. 1414 Of 2019, Criminal
Miscellaneous Application No. 5643 Of 2019

Bhim Sen & Ors

APPELLANT

Vs

State & Anr

RESPONDENT

Date of Decision : 15-03-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 406, 498A
Code of Criminal Procedure, 1973 — Section 482

Citation : (2019) 03 DEL CK 0138

Hon'ble Judges : Sunil Gaur, J

Bench : Single Bench

Advocate : Irshad Ahmad, Archana Verma, M.S. Oberoi, Anant Sharma

Final Decision : Disposed Off

Judgement

Quashing of FIR No. 732/2015, under Sections 498-A/406/34 of IPC, registered at police station Palam Village, Delhi is sought on the basis of Mediated Settlement of 16th July, 2018 reached between the parties.

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 ASI Shyam Sunder 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 as today, she has received an amount of Rs. 3,00,000/- by way of demand draft bearing No.391933 dated 29th December, 2018 drawn on Bank of Baroda, Sector-7, Rohini Branch, Delhi from petitioners and that divorce by mutual consent has been already granted by the family court on 1st February, 2019. She affirms the contents of her affidavit of 27th February, 2019 supporting this petition and submits that now no dispute with petitioner 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 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".

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 R s. 10,000/-to be deposited by petitioners with Prime Minister's National Relief Fund within two weeks 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. 732/2015, under Sections 498-A/406/34 of IPC, registered at police station Palam Village, Delhi and the proceedings emanating therefrom shall stand quashed.

This petition and application are accordingly disposed of.

Dasti.