

(2019) 08 DEL CK 0331

In the Delhi High Court

Case No : Criminal Miscellaneous Case No. 4028 Of 2019

Manoj Kumar & Ors

APPELLANT

Vs

State & Ors

RESPONDENT

Date of Decision : 19-08-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 323, 427, 452, 506
Code Of Criminal Procedure, 1973 — Section 482

Citation : (2019) 08 DEL CK 0331

Hon'ble Judges : Sunil Gaur, J

Bench : Single Bench

Advocate : Ashok Kumar Tanwar, Jyoti Bharti, Izhar Ahmad

Final Decision : Disposed Off

Judgement

Sunil Gaur, J

CRL.M.A.33574/2019 (Exemption)

Allowed subject to all just exceptions.

CRL.M.C. 4028/2019

Quashing of FIR No.302/2018, under Sections 323/452/506/427/34 of IPC, registered at Police Station Sector-23 Dwarka, Delhi is sought on the basis of affidavits of Respondents No. 2 to 5.

Learned counsel for petitioners submits that due to inadvertence, the name of co-accused-Arun was left out and has handed over 'Amended Memo of Parties' impleading co-accused - Arun s/o Sh. Jai Prakash in this petition. The 'Amended Memo of Parties' is taken on record.

Upon notice, learned Additional Public Prosecutor for respondent No.1-State submits that respondents No.2 to 5, present in the Court, are the complainant/party of FIR in question and they have been identified to be so, by SI Madan Lal

on the basis of identity proof produced by them.

Respondent No. 2-Swati Surhatia, wife of petitioner No. 1, submits that the misunderstanding, which led to registration of the FIR in question, now stands cleared between the parties and she is happily residing with petitioner No. 1-husband for the last one year. Respondents No. 2 to 5 affirm the contents of their affidavits supporting this petition and submits that now no grievance against petitioners survives and so, to restore cordiality between the parties, who are related to each other, the proceedings arising out of the FIR in question be brought to an end against all the accused.

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."

The subject matter of this FIR arises from matrimonial dispute, which stands mutually and amicably settled between parties, and so, continuance of proceedings arising out of the FIR in question would be an exercise in futility as misunderstanding between the parties now stands cleared.

Consequently, this petition is allowed subject to costs of Rs. 10,000/- to be deposited by petitioners with Prime Minister's National Relief Fund within a week 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.302/2018, under Sections 323/452/506/427/34 of IPC, registered at Police Station Sector-23, Dwarka, Delhi and the proceedings emanating therefrom shall stand quashed.

This petition is accordingly disposed of.

Dasti.