

(2019) 05 DEL CK 0476

In the Delhi High Court

Case No : Criminal Miscellaneous Case No. 2954, 2973 Of 2019

Sanjay Khurana & Anr

APPELLANT

Vs

State & Anr

RESPONDENT

Date of Decision : 29-05-2019

Acts Referred:

Trade And Merchandise Marks Act, 1958 — Section 103, 104

Copy Right Act, 1957 — Section 63

Code Of Criminal Procedure, 1973 — Section 482

Citation : (2019) 05 DEL CK 0476

Hon'ble Judges : Sunil Gaur, J

Bench : Single Bench

Advocate : R.K. Uppal, Lokesh Kumar, Izhar Ahmad, Veerendra Kr. Sinha

Final Decision : Disposed Of

Judgement

Sunil Gaur, J

CRL.M.As. 11873/2019 & 11937/2019 (Exemptions)

Allowed, subject to all just exceptions.

CRL.M.C. 2954/2019

CRL.M.C. 2973/2019

In the above captioned petitions, quashing of FIR No. 55/2008 & FIR No. 56/2008, under Sections 103/104 of Trade and Merchandise Marks Act, 1958 and Section 63 of the Copy Right Act, 1957 both registered at Police Station E.O.W. Cell, New Delhi is sought on the basis of settlement of 9th August, 2017 which is common in both the petitions.

Since these two FIRs are of identical nature, therefore, with the consent of learned counsel for the parties, the above captioned petitions are heard together and are being disposed of by this common order.

Upon notice learned counsel for second respondent submits that Mr. Sheel Kumar Bansal, A.R. of respondent No. 2 company is present in the Court. Authorized Representative of respondent No. 2 submits that the terms of aforesaid settlement deed has been acted upon and affirms the contents of his affidavit of 24th May, 2019 filed in support of these petitions. Mr. Sheel Kumar Bansal, A.R. of respondent No. 2 company submits that now no dispute with petitioners survives and so, the proceedings arising out of the FIRs 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 these FIRs is of commercial nature, which has been compromised between the parties, therefore, continuance of proceedings arising out of these FIRs in question would be an exercise in futility.

Accordingly, these petitions are allowed subject to costs of Rs. 10,000/- in each petition, 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. 55/2008 & FIR No. 56/2008, under Sections 103/104 of Trade and Merchandise Marks Act, 1958 and Section 63 of the Copy Right Act, 1957 both registered at Police Station E.O.W. Cell, New Delhi and the proceedings emanating therefrom shall stand quashed qua petitioners.

These petitions are accordingly disposed of.

A copy of this order be given dasti to learned counsel for the parties.