

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

Date of Order: May 31, 2019

+ **CRL.M.C. 3073/2019 & Crl.M.A. 12369/2019**

SUNIL KUMAR & ORS.

..... Petitioners

Through: Mr. Arvind Gaur, Mr. Sabyasachi
Mishra and Mr. Amit Garg,
Advocates.

Versus

STATE (NCT OF DELHI) & ANR.

..... Respondents

Through: Mr. Izhar Ahmed, Additional
Public Prosecutor for respondent
No.1-State with ASI Suresh
Kumar.
Ms. Mukta Gaur, Advocate with
respondent No.2 in person.

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

Quashing of FIR No. 34/2002, under Sections 498A/406/34 IPC, registered at Police Station New Ushmanpur, Delhi is sought on the basis of affidavit of 30th March, 2019 of respondent No 2.

Upon notice, learned Additional Public Prosecutor for respondent-State submits that respondent Nos. 2, who is present in the Court, is the complainant of FIR in question and she has been identified to be so, by ASI Suresh Kumar, on the basis of identity proof produced by her.

Respondent No. 2 submits that the dispute between the parties has been amicably resolved and today, she has received amount of

₹1,00,000/- from petitioners and that divorce by mutual consent has been granted by the Family Court on 10th July, 2018. She affirms the contents of her affidavit of 30th March, 2019 supporting this petition and submits that 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 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 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 ₹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. 34/2002, under Sections 498A/406/34 IPC, registered at Police Station New Ushmanpur, Delhi and the proceedings emanating therefrom shall stand quashed qua petitioners.

This petition and application are accordingly disposed of.

Dasti.

**(SUNIL GAUR)
JUDGE**

MAY 31, 2019
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भारतमेव जयते