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Sanjay vs.state & Anr.

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Court : Delhi

Decided On : Jan-15-2019

Appellant : Sanjay

Respondent : State & Anr.

Judgement :

* + IN THE HIGH COURT OF DELHI AT NEW DELHI Date of Order: January 15, 2019 CRL.M.C. 168/2019 & CRL.M.A. 735/2019 SANJAY .....Petitioner Through: Mr. Vivek Kumar Pandit, Advocate versus STATE & ANR. Through: Mr. M.S. Oberoi, learned .....Respondents Additional Public Prosecutor with SI Ram Naresh Respondent No.2 in person CORAM: HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL) Quashing of FIR No.20/2017, under Section 308 of IPC, registered at police station Mukherjee Nagar, Delhi is sought on the basis of Memorandum of Understanding of 5th November, 2018 (Annexure P-2 colly.) and on the ground that misunderstanding which led to registration of the FIR in question now stands cleared between the parties. for respondent-State submits that Upon notice, Mr. M.P.Singh, learned Additional Public Prosecutor respondent No.2, present in the Court, is complainant/first-informant of the FIR in question and she has been identified to be so by SI Ram Naresh on the basis of identity proof produced by her. Respondent No.2, present the dispute with petitioner has been amicably resolved. She affirms the CRL.M.C. 168/2019 in the Court, submits that Page 1 of 4 contents of her affidavit of 5th November, 2018 filed in support of this petition

and submits that she is happily living with petitioner and to restore cordiality between the parties, 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 SCC641has reiterated the parameters for exercising inherent jurisdiction under Section 482 Cr.P.C. for quashing of FIR / criminal complaint, which are as under:-

"16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:

16. 1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court. 16.2. The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non- compoundable. 16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power. CRL.M.C. 168/2019 Page 2 of 4 16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court. 16.5. The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated. 16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or

the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences. 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 the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and 16.10. There is yet an exception to the principle set out in in view of CRL.M.C. 168/2019 Page 3 of 4 propositions 16.8. and 16.9. above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance. 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 cost of `10,000/- to be deposited by petitioner with Prime Ministers National Relief Fund within four weeks from today and upon placing on record the receipt of deposit of cost within two weeks thereafter, FIR No.20/2017, under Section 308 of IPC, registered at police station Mukherjee Nagar, Delhi and the proceedings emanating therefrom shall stand quashed qua petitioner. However, it is made clear that this order will not stand in the way of respondent No.2 to have recourse to law, if need be. This petition and the application are accordingly disposed of. Dasti. JANUARY15 2019 v CRL.M.C. 168/2019 (SUNIL GAUR) JUDGE Page 4 of 4

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