

(2011) 09 GUJ CK 0097

In the Gujarat High Court

Case No : Criminal Miscellaneous Application No. 12302 of 2011

Abhishek Lalbhai Patel

APPELLANT

Vs

State of Gujarat and Another

RESPONDENT

Date of Decision : 02-09-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Penal Code, 1860 (IPC) — Section 498A, 506(1)

Protection of Women From Domestic Violence Act, 2005 — Section 3, 7

Citation : (2011) 09 GUJ CK 0097

Hon'ble Judges : M.R. Shah, J

Bench : Single Bench

Advocate : Hardik H. Dave, for the Appellant; K.P. Rawal, APP for Respondent No. 1 and Rushabh Shah, for the Respondent

Judgement

M.R. Shah, J.—Rule. Mr. K.P. Rawal, learned Additional Public Prosecutor waives service of notice of Rule on behalf of Respondent No. 1 - State and Mr. Rushabh Shah, learned advocate waives service of notice of Rule on behalf of Respondent No. 2 - original complainant.

2. In the facts and circumstances of the case and with the consent of the learned advocates appearing on behalf of the respective parties and as it is reported that the dispute is settled between the parties, Respondent No. 2 - original complainant does not want to proceed further with the complaint and does not want to prosecute the Petitioner and it is reported that even otherwise accused persons were tried and came to be acquitted by learned Judicial Magistrate, First Class, Mansa by declaring original complainant as hostile and she did not support the case of the prosecution, the present petition is taken up for final hearing today.

3. The present application u/s 482 of the Code of Criminal Procedure has been preferred by the applicant - original accused No. 1 to quash and set aside the FIR culminating in Criminal Case No. 1307 of 2010 in the Court of learned Judicial

Magistrate, First Class, Mansa as well as charge-sheet filed against the applicant quashing the impugned FIR being C.R. No. II-93 of 2010 registered with Mansa Police Station lodged against the applicant - original accused for the offences punishable under Sections 498-A, 506(1) of the Indian Penal Code and under Sections 3 and 7 of the Domestic Violence Act and further proceedings, if any arising out of impugned FIR.

4. Mr. Shah, learned advocate appearing on behalf of Respondent No. 2 - original complainant has submitted that an affidavit is also filed, which is affirmed by Respondent No. 2 - original complainant confirming settlement entered into between the parties and by submitting that she has no objection, if the impugned complaint/FIR is quashed and set aside.

5. Learned advocates appearing on behalf of the respective parties have relied upon the decision of the Hon"ble Supreme Court in the case of Madan Mohan Abbot Vs. State of Punjab, in the case of Nikhil Merchant v. Central Bureau of Investigation and Anr. reported in 2009 (1) GLH 31 as well as in the case of Manoj Sharma v. State and Ors. reported in 2009 (1) GLH 190.

6. Having heard the learned advocates appearing on behalf of the respective parties and considering the facts as stated hereinabove and as the parties have amicably settled the dispute and consent terms have been arrived at between the parties and considering the aforesaid decisions of the Hon"ble Supreme Court, it appears to the Court that the impugned FIR be quashed and set aside in exercise of power u/s 482 of the Code of Criminal Procedure and to continue criminal proceedings against the applicant - original accused will be unnecessary harassment to the applicant and the same shall not be in the interest of the parties.

7. In view of the above and for the reasons stated hereinabove, the impugned FIR culminating in Criminal Case No. 1307 of 2010 in the Court of learned Judicial Magistrate, First Class, Mansa as well as charge-sheet filed against the applicant quashing the impugned FIR being C.R. No. II-93 of 2010 registered with Mansa Police Station lodged against the applicant - original accused for the offences punishable under Sections 498-A, 506(1) of the Indian Penal Code and under Sections 3 and 7 of the Domestic Violence Act and further proceedings, if any arising out of impugned FIR are hereby quashed and set aside. Rule is made absolute accordingly.