

(2020) 01 GUJ CK 0096

In the Gujarat High Court

Case No : R/Special Criminal Application No. 60 Of 2020

Ajaybhai Prabhudas Solanki

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 07-01-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 114, 363, 366

Protection Of Children From Sexual Offences (POCSO) Act, 2012 — Section 3, 4

Citation : (2020) 01 GUJ CK 0096

Hon'ble Judges : S.H.Vora, J

Bench : Single Bench

Advocate : Devangi B Solanki, Pranav Trivedi

Final Decision : Allowed

Judgement

S.H.Vora, J

[1] Learned advocate Mr. Jay Talati, states that he has instructions to appear for the victim Ms. Payalben.

[2] Learned advocate Mr. Jay Talati confirms identity of the victim, who is present in the Court and admits correctness and genuineness of the affidavit filed by her through learned advocate Mr. Jay Talati, which is annexed at Annexure E.

[3] Rule. Learned A.P.P. waives service of Rule for respondent No.1. Learned APP objects quashment of present proceedings on the premise of settlement.

[4] With the consent of learned advocate for the applicant and learned advocate for the victim, present application is taken up for final disposal today.

[5] By way of the present application under Section 482 of the Code of Criminal Procedure, 1973 (for short, the 'Code'), the applicant prays for quashing and setting aside the F.I.R. being C.R.No.I-13 of 2017 registered with Paliyad Police Station for the offences punishable under Sections 363, 366, 114 of the Indian

Penal Code and under the provisions of sections 3 and 4 of the POCSO Act.

[6] Learned advocate for the applicant has taken this Court through the factual matrix arising out of the present application.

[7] It is now stated at bar that the applicant and the victim have settled the dispute amicably and the victim has no grievance against the applicant. Not only that the victim and the applicant have married on 15.4.2017 as per marriage registration certificate annexed at Annexure B and out of said wedlock, they have delivered a baby child on 10.4.2019 as per birth registration certificate annexed at Annexure D.

[8] It is in light of this aspect, the applicant and the victim urged that impugned FIR may be quashed.

[9] Learned advocate appearing for the the victim points out that since the victim has already married with the applicant, it will be more in her interest that the impugned criminal proceedings may be quashed, as otherwise, their marital life will be put into jeopardy and there is no one to take care of her as well as her child, who is hardly aged about nine months old.

[10] In view of the aforementioned aspect, more particularly, in light of the affidavit filed by the victim, this Court is inclined to consider the plea for quashment of the impugned criminal proceedings, as otherwise, it will detrimentally affect the family life of the victim girl and even the balance and harmony that could be achieved by them in the resolution of disputes that again be irrecoverably lost.

[11] Since now, the dispute with reference to the impugned F.I.R. is settled and resolved by and between parties which is confirmed by the victim through her learned advocate, who confirms the correctness and genuineness of the affidavit, the trial would be futile and any further continuation of proceedings would amount to abuse of process of law. Therefore, the impugned F.I.R. is required to be quashed and set aside in view of peculiar facts of the case being exception to the general principle of law to decline the quashment of proceedings of the nature like present one.

[12] In view of this position, this application is allowed. Impugned F.I.R. being C.R.No.I-13 of 2017 registered with Paliyad Police Station and all other proceedings taken out in pursuance thereof against the present applicant are hereby quashed and set aside. The applicant will produce certified copy of this order before the concerned learned Sessions Court and also before the investigating officer for necessary action. Rule is made absolute to the aforesaid extent. Direct service is permitted.