

(2023) 03 GUJ CK 0062

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 4825 Of 2023

Amit Ishwarbhai Magnani

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 14-03-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 386, 509, 506(2)
Gujarat Money Lenders Act, 2011 — Section 40, 42(a), 42(d)

Citation : (2023) 03 GUJ CK 0062

Hon'ble Judges : Samir J. Dave, J

Bench : Single Bench

Advocate : Nilay A Thaker, K.S . Chandrani, M H Bhatt

Final Decision : Allowed

Judgement

Samir J. Dave, J

1. Learned Advocate Mr.K. S. Chandrani states that he has instructions to appear for original complainant and he seeks permission to file his appearance on behalf of original complainant. The permission as prayed for is granted.

2. Heard learned counsel for the respective parties.

2. Rule. Learned advocates appearing for the respective respondents waive service of Rule on behalf of the respective respondents.

3. Considering the issue involved in the present application and with consent of the learned advocates appearing for the respective parties as well as considering the fact that the dispute amongst the applicant and complainant has been resolved amicably, this matter is taken up for final disposal forthwith.

4. By way of this application under section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "the Code"), the applicant has prayed for quashing and setting aside FIR being C.R.No.11207025230139/2023

registered with Godhra 'A' Division Police Station, Dist. Panchmahal, for the offence under Sections 386, 509, 506(2) of the Indian Penal Code and under sections 40, 42(a) and 42(d) of the Gujarat Money Lenders Act as well as other consequential proceedings arising therefrom.

5. Learned counsel for the respective parties submitted that during pendency of the criminal proceedings, as referred to above, the parties have amicably settled their issue by way of mutual settlement and pursuant to understanding arrived at, the Complainant has accordingly filed an affidavit, which is taken on record. The complainant has categorically stated in the affidavit that dispute is amicably resolved and has no objections if the present proceedings are quashed and there is no surviving grievance between them.

6. Having heard the learned counsel for the respective parties, considering the facts and circumstances arising out of the present application as well as taking into consideration the decisions rendered in the cases of Gian Singh Vs. State of Punjab & Anr., reported in (2012) 10 SCC 303, Madan Mohan Abbot Vs. State of Punjab, reported in (2008) 4 SCC 582, Nikhil Merchant Vs. Central Bureau of Investigation & Anr., reported in 2009 (1) GLH 31, Manoj Sharma Vs. State & Ors., reported in 2009 (1) GLH 190 and Narinder Singh & Ors. Vs. State of Punjab & Anr. reported in 2014 (2) Crime 67 (SC), it appears that further continuation of criminal proceedings in relation to the impugned FIR against the applicants would be unnecessary harassment to the applicants. It appears that the trial would be futile and further continuance of the proceedings pursuant to the impugned FIR would amount to abuse of process of law and Court and hence, to secure the ends of justice, the impugned FIR and other consequential proceedings are required to be quashed and set aside in exercise of powers conferred under Section 482 of the Code.

7. Resultantly, this application is allowed. The impugned FIR being C.R.No.11207025230139/2023 registered with Godhra 'A' Division Police Station, Dist. Panchmahal, as well as other consequential proceedings are hereby quashed and set aside qua the present applicants herein. Accordingly, Rule is made absolute. Direct service is permitted.

If the applicant is behind bar, Jail authority as well as Court concerned shall take necessary steps to release the accused- applicant from the jail if not required in any other offence.