

(2018) 01 GUJ CK 0020
In the Gujarat High Court
Case No : 20995 of 2015

ASHOKKUMAR FERUMAL DHANWANI & ANR

APPELLANT

Vs

STATE OF GUJARAT & ANR

RESPONDENT

Date of Decision : 23-01-2018

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 482](#) - Saving of inherent powers of High Court
[Indian Penal Code, 1860](#), [Section 114](#),
[Section 498A](#) -

Citation : (2018) 01 GUJ CK 0020

Hon'ble Judges : J.B.Pardiwala

Bench : Single Bench

Advocate : RR MARSHALL, SURAJ A SHUKLA, P P MAJMUDAR, DM DEVNANI

Final Decision : Allowed

Judgement

1. As the issues raised in both the captioned applications are the same and the prayer is also to quash the selfsame FIR, those were heard

analogously and are being disposed of by this common judgment and order.

2. RULE returnable forthwith. Mr.D.M.Devnani, the learned APP waives service of notice of rule for and on behalf of the respondent no.1 - State

of Gujarat in both the applications. Mr.P.P.Majmudar, the learned counsel waives service of notice of rule for and on behalf of the respondent

no.2 in both the applications.

3. By these two applications under Section 482 of the Code of Criminal Procedure, 1973, the applicants - original accused seek to invoke the

inherent powers of this Court, praying for quashing of the FIR bearing CR-I No.107 of 2015 registered before the Gorwa Police Station,

Vadodara, for the offences punishable under Section 498A read with Section 114 of the Indian Penal Code and Sections 3 & 7 of the Dowry

Prohibition Act.

4. It appears from the materials on record that the respondent no.2 got married with one Ravibhai Ashokkumar Dhanwani on 25th December

2013. No issues are born in the wedlock. Soon after the marriage matrimonial disputes cropped up which, ultimately, led to the filing of the present

FIR against the husband, father-in-law, mother-in-law and the sister-in-law.

5. The Criminal Misc. Application No.20995 of 2015 is filed by the father-in-law and mother-in-law of the respondent no.2, whereas the

connected Criminal Misc. Application No.61 of 2016 has been filed by the husband and his sister.

6. On 30th November 2017, the following order was passed :

It appears from the materials on record that the marriage of the respondent no.2 was solemnized with one Ravibhai Ashokkumar Dhanwani on

25th December 2013. Soon after the marriage, matrimonial disputes cropped up. The husband left for the United States in April 2014. On 20th

October 2014, he returned to India. Thereafter, the respondent no.2 also went to the United States with her husband, but as alleged, she had to

come back to India on account of the harassment at the end of the husband. It appears to be a case of a dead-marriage. There appears to be an

irretrievable breakdown of the marriage. More than a prima facie case is made out against the husband as regards the harassment and cruelty.

The husband should immediately come down to India and take steps to dissolve the marriage with the consent of the respondent no.2 subject to

certain terms and conditions. The husband should not sit fine in the United States and ruin the life of an innocent young girl. Mr.Solanki, the learned

counsel appearing for the applicants, shall inform his clients that the court wants the husband to come down to India and appear before this Court

at the earliest. If the husband honours the directions of this Court, then it is well and good. Otherwise, appropriate steps shall be taken in

accordance with law including issue of a red-corner notice and steps for deportation.

The applicants herein shall immediately speak to Mr.Ravi Dhanwani and inform him about this order. Post both these matters on 20th December

2017. Direct service is permitted.

7. In my order referred to above, I had observed that the husband should come down to India and take steps to dissolve the marriage. The

husband, even as on date, is in the United States. In the absence of the husband, the parties have been able to resolve the dispute and have

reached to an amicable settlement. The settlement between the parties has been reduced into writing duly signed by the father of the respondent

no.2 as the power of attorney of his daughter. On behalf of the husband, his father has signed the terms of the settlement. The terms of the

settlement reduced into writing are ordered to be taken on record and they shall be kept with the record of this case.

8. I take notice of the fact that the respondent no.2 has accepted the decree of divorce passed by the superior court of Arizona, Maricopa

County, USA, dated 19th March 2015. As the respondent no.2 has accepted the divorce decree passed by a court in the United States, there is

no reason now for the parties to apply for dissolution of the marriage in India under the provisions of the Hindu Marriage Act.

9. The principal understanding is that the husband shall pay Rs.15 lac (Rupees Fifteen Lac Only) to the wife towards the full and final settlement of

the entire dispute. Mr.Marshall, the learned senior counsel appearing for the applicants, hands over a demand draft of the amount of Rs.15 lac to

the parents of the respondent no.2.

10. The parents of the respondent no.2 are present in the court. They take possession of the demand draft of the amount of Rs.15 lac.

11. The obligation on the part of the respondent no.2 now in terms of the settlement is to withdraw the proceedings initiated by her under the

Domestic Violence Act. Such proceedings are pending in the court of the learned JMFC, Vadodara. The respondent no.2 shall pass an

appropriate purshis in this regard so that an appropriate order can be passed by the court concerned.

12. With that, all the consequential proceedings pursuant thereto shall stand terminated, including if any appeals filed before the appellate court.

The proceedings under the Domestic Violence Act shall be withdrawn by the respondent no.2 within a period of four weeks from today.

13. In view of the above, both the applications are allowed. The FIR bearing CR-I

No.107 of 2015 registered before the Gorwa Police Station, Vadodara, is hereby quashed. All consequential proceedings pursuant thereto shall stand terminated. Rule made absolute. Direct service is permitted. At this stage, a very unusual and a curious request is made by Mr.Majmudar.

14. Since an apprehension has been expressed, I must look into it. The apprehension is that the husband may, in future, initiate some proceedings against the respondent no.2 before some court in the United States. I see no good reason for the husband to do so. Once a settlement is arrived at between the parties and recorded by this Court, and pursuant to the same final orders are being passed, there is no reason for either of the parties to once again raise any issues. Both have decided to part ways and have parted. This should be the end of everything.