

(2010) 12 GUJ CK 0056
In the Gujarat High Court

Case No : Criminal Miscellaneous Application No. 14714 of 2010

Ashvinbhai Nagarbhai Dalvadi

APPELLANT

Vs

State of Gujarat and Another

RESPONDENT

Date of Decision : 30-12-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 114, 363, 366

Citation : (2010) 12 GUJ CK 0056

Hon'ble Judges : Mukesh R. Shah, J

Bench : Single Bench

Advocate : Y.J. Patel, for the Appellant; K.P. Raval, Assistant Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

M.R. Shah, J.—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 impugned complaint/FIR being C.R. No. I-35/2010 registered with Chuda Police Station, District Surendranagar for the offences punishable under Sections 363, 366 and 114 of the IPC.

2. An FIR has been lodged by Respondent No. 2 - original complainant against the applicant at Chuda Police Station, District Surendranagar for the offences punishable under Sections 363, 366 and 114 of the IPC alleging inter-alia that his daughter has been abducted by the applicant.

3. Shri Y.J. Patel, learned advocate appearing on behalf of the applicant has submitted that as such the applicant has not committed any offence as alleged under Sections 363, 366 and 114 of the IPC and infect the daughter of the original complainant has voluntarily gone with the applicant to marry with him as both of them were in love and that they have now already married. It is submitted that even the statement of the girl of the original complainant - now wife of the applicant was recorded before the Division Bench of this Court in

habeas corpus petition being Special Criminal Application No. 2163/2010 and she had specifically stated at the Bar that she wants to go and stay with the applicant. Therefore, it is requested to quash and set aside the impugned complaint/FIR.

4. Though served, nobody appears on behalf of Respondent No. 2.

5. Having heard Shri Y.J. Patel, learned advocate appearing on behalf of the applicant and Shri K.P. Raval, learned Additional Public Prosecutor appearing on behalf of Respondent No. 1 - State and even considering the statement of the girl Varshaben - daughter of the original complainant and now the wife of the applicant recorded in the habeas corpus proceedings being Special Criminal Application No. 2163/2010, it appears that both, applicant and daughter of the original complainant viz. Varshaben are major and both of them have got married and even the statement of Varshaben has been recorded today and it is specifically stated by the daughter of the original complainant - Varshaben that she has voluntarily gone with the applicant to marry him. Under the circumstances, as such no case is made out against the applicant for the alleged offences punishable under Sections 363, 366 and 114 of the IPC. Hence, to continue the criminal proceedings against the applicant would be abuse of process of Court and law and unnecessary harassment to the applicant. Under the circumstances, this Court is of the opinion that this is a fit case to exercise powers u/s 482 of the Code of Criminal Procedure and to quash and set aside the impugned complaint/First Information Report.

6. In view of the above and for the reasons stated above, application succeeds and the impugned FIR being C.R. No. 35/2010 registered with Chuda Police Station, District Surendranagar is hereby quashed and set aside. Rule is made absolute accordingly.