

(2024) 10 GUJ CK 0011
In the Gujarat High Court

Case No : Criminal Miscellaneous Application (For Quashing & Set Aside Fir/Order) No. 18154 Of 2024

Bhagwanbhai Samatbhai Solanki Versus

APPELLANT

Vs

State Of Gujarat & Anr.

RESPONDENT

Date of Decision : 03-10-2024

Acts Referred:

Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 528
Indian Penal Code, 1860 — Section 114, 504, 506(2)
Gujarat Land Grabbing (Prohibition) Act, 2020 — Section 3, 4(1), 4(3), 5(c)

Citation : (2024) 10 GUJ CK 0011

Hon'ble Judges : Nirzar S. Desai, J

Bench : Single Bench

Advocate : Denish V Mavadhiya, Vrunda Shah

Final Decision : Allowed

Judgement

Nirzar S. Desai, J

1. Heard the learned advocates appearing for the respective parties. Learned advocate Mr.Mohitsingh Jadeja states that he has an instructions to appear for the respondent No.2 – complainant. He is permitted to file his appearance forthwith.

2. Rule. Learned Additional Public Prosecutor as well as learned advocate appearing for the Complainant 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 respondent No.2 has been resolved amicably, this application is taken up for final disposal forthwith.

4. By way of this application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as "BNSS"), the applicant has

prayed for quashing and setting aside F.I.R. bearing C.R. No. 11186004240179 of 2024 registered with Prabhas Patan Police Station, Dist. Gir-Somnath for the commission of offence punishable under Sections 506(2), 504 and 114 of the Indian Penal Code and Section 3, 4(1), 4(3) and 5(c) of the Gujarat Land Grabbing (Prohibition) Act, 2020 as well as all other consequential proceedings arising out of the aforesaid FIR qua the applicant.

5. Learned advocate for the applicant has taken this Court through the factual matrix arising out of the present application. At the outset, it is submitted that the parties have amicably resolved the issue and therefore, any further continuance of the proceedings pursuant to the impugned FIR as well as any further proceedings arising therefrom would create hardship to the applicant. It is submitted that respondent No.2 has filed an affidavit in these proceedings and has declared that the dispute between the applicant and respondent No.2 is resolved due to intervention of trusted persons of the society. It is further submitted that in view of the fact that the dispute is resolved, the trial would be futile and any further continuance of the proceedings would amount to abuse of process of law. It is therefore submitted that this Court may exercise its inherent powers conferred under Section 528 of the BNSS and allow the application as prayed for.

6. Learned Additional Public Prosecutor appearing for the State has opposed the present application and submitted that considering the seriousness of the offence, the complaint in question may not be quashed and the present application may be rejected.

7. Learned advocate for respondent No.2 has reiterated the contentions raised by the learned advocate for the applicant. The learned advocate for respondent No.2 also relied upon the affidavit filed by respondent No.2 – Juned Isamailbhai Jada dated 31.08.2024. Respondent No.2 is present in person before the Court and is identified by learned advocate for respondent No.2. On inquiry made by the Court, respondent No.2 has declared before this Court that the dispute between the applicant and respondent No.2 is resolved due to intervention of trusted persons of the society and therefore, now the grievance stands redressed. It is therefore submitted that the present application may be allowed.

8. Having heard the learned advocates appearing for the respective parties, considering the facts and circumstances arising out of the present application as well as taking into consideration the decisions rendered by the Hon'ble Supreme Court 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 applicant would be unnecessary harassment to the applicant. I have also considered the latest decision of the Hon'ble Supreme

Court in the case of Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others v. State of Gujarat, Criminal Appeal No.1723 of 2017 dated 4.10.2017 and the guidelines issued by the Hon'ble Supreme Court in the said decision, particularly paragraph 15. Considering the nature of disputes between the parties which are all private in nature, I am of the opinion that the matter requires consideration. 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 hence, to secure the ends of justice, the impugned FIR is required to be quashed and set aside in exercise of powers conferred under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

9. Resultantly, this application is allowed and the impugned F.I.R. bearing C.R. No. 11186004240179 of 2024 registered with Prabhas Patan Police Station, Dist. Gir-Somnath is hereby quashed and set aside qua the applicant. Consequently, all other proceedings arising out of the aforesaid F.I.R. are also quashed and set aside qua the applicant. Accordingly, Rule is made absolute.

Direct service is permitted.