

(2011) 09 GUJ CK 0153
In the Gujarat High Court

Case No : Special Criminal Application No. 1898 of 2007

Bhavanaben and Others

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 19-09-2011

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 114, 365, 380, 452, 506(2)

Citation : (2011) 09 GUJ CK 0153

Hon'ble Judges : M.R. Shah, J

Bench : Single Bench

Advocate : Mehul M. Mehta, for the Appellant; L.B. Dabhi, APP for Respondents 1 and I.H. Syed, for Respondent 3, for the Respondent

Final Decision : Allowed

Judgement

M.R. Shah, J.—The present Special Criminal Application under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure has been preferred by the Petitioners-original accused to quash and set aside the impugned Complaint/FIR being CR No. I 397/2007 registered with An and Town Police Station for the offence punishable under Sections 365, 380, 452, 506(2) and 114 of the Indian Penal Code. It appears that Respondent No. 2-original complainant is the aunt of Petitioner No. 1. It appears that Petitioner No. 1 was in love with Petitioner No. 2 and she wanted to marry Petitioner No. 2 and, therefore, she ran away with Petitioner No. 2 and married Petitioner No. 2 on 25/05/2007. It appears that the marriage between Petitioner No. 1 and Petitioner No. 2 was not liked by Respondent No. 2-original complainant, the aunt of Petitioner No. 1 and, therefore, the impugned FIR came to be filed by her with the An and Town Police Station on dated 31/08/2007 against the Petitioners for the offences punishable under Sections 365, 380, 452, 506(2) and 114 of the Indian Penal Code alleging that the Petitioner No. 2 came to her house on 29/08/2007 at 09:15 a.m. and kidnapped her nephew (Petitioner No. 1 herein)

by committing house trespass, taking 26 tolas of gold and Rs. 55,000/- from her house threatening to kill her. Being aggrieved and dissatisfied with the impugned FIR the Petitioners-original accused have preferred the present Special Criminal Application to quash and set aside the impugned FIR.

2. Today, when the present petition is taken up for final hearing, Respondent No. 2 had personally remained present before Court, who has been identified by the concerned Investigating Officer of An and Town Police Station. She has stated at the bar that the dispute is amicably settled between the parties and that now she is accepting the marriage between Petitioner No. 1 and Petitioner No. 2 and has no objection if the impugned Complaint/FIR is quashed and set aside. The statement to the aforesaid extend recorded by the concerned Investigating Officer signed by Respondent No. 2-original complainant is directed to be taken on record.

3. In view of the above, the learned advocate appearing on behalf of the Petitioners has requested to quash and set aside the impugned FIR relying upon the decisions in the case of Madan Mohan Abbot Vs. State of Punjab, in the case of Nikhil Merchant v. Central Bureau of Investigation and Anr. reported in 2009 (1) GLH 31 as well as in the case of Manoj Sharma v. State and Ors. reported in 2009 (1) GLH 190 by further submitting that to continue the criminal proceedings against the Petitioners would be unnecessary harassment to the parties and the same shall not be in the larger interest of family.

4. Shri Dabhi, learned APP appearing on behalf of Respondent No. 1 has requested to pass an appropriate order considering the above.

5. Having heard the learned advocates appearing on behalf of the respective parties and considering the stand taken by Respondent No. 2-original complainant now and her statement, which is recorded by the Investigating Officer, which is directed to be taken on record and as it is reported that the dispute has been amicably settled between the parties and that Respondent No. 2-original complainant, who is the aunt of Petitioner No. 1, has no objection if the impugned quashed and set aside, to continue the criminal proceedings against the Petitioners will be unnecessary harassment to the accused and the same shall not be in the interest of parties.

6. It appears that at the relevant time as Respondent No. 2-original complainant had not accepted the marriage of Petitioner No. 1 and Petitioner No. 2 and due to anger the impugned FIR was lodged. In any case in view of the above stand taken by Respondent No. 2 now it appears to the Court that this is a fit case to exercise powers u/s 482 of the Code of Criminal Procedure. In view of the above and for the reasons stated hereinabove, the present petition succeeds and the impugned FIR, being C.R. No. I 397/2007 registered with An and Town Police Station for the offence punishable under Sections 365, 380, 452, 506(2) and 114 of the Indian Penal Code is hereby quashed and set aside so far as the Petitioners are concerned. Rule is made absolute.