

(2011) 05 GUJ CK 0118
In the Gujarat High Court

Case No : Criminal Miscellaneous Application No's. 5730 and 5745 of 2011

Dinakaran Ayer

APPELLANT

Vs

State of Gujarat and Another

RESPONDENT

Date of Decision : 06-05-2011

Acts Referred:

Atrocity Act — Section 3
Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 107, 114, 306, 506(1), 507

Citation : (2011) 05 GUJ CK 0118

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

Bench : Single Bench

Advocate : Hardik A. Dave, for the Appellant; L.R. Pujari, APP for Respondent 1 and P.B. Khandheria, for Respondent 2, for the Respondent

Judgement

M.D. Shah, J.—Rule. Learned Addl. Public Prosecutor, Mr. L.R. Pujari, waives service of rule on behalf of the Respondent - State.

2. The present applications u/s 482 of the Code of Criminal Procedure have been filed for quashing of FIR registered as C.R. No. 22 of 2011 before Adajan Police Station, for the offences punishable under Sections 306, 506(1), 507 and 114 of IPC and u/s 3(i)(x) of Atrocity Act in pursuance of complaint filed by the Respondent No. 2-complainant.

3. Heard Mr. H. A. Dave, learned advocate for the Petitioner in Criminal Misc. Application No. 5730 of 2011, Mr. Shakeel A. Qureshi, learned advocate for the Petitioners in Criminal Misc. Application No. 5745 of 2011 and learned Addl. Public Prosecutor, Mr. L. R. Pujari for the Respondent No. 1.

4. As per submissions of Mr. H.A. Dave, learned advocate for the Petitioner deceased was working in the office of the accused named in FIR, namely, Mr. Miki Shah and Mr. Jigesh Shah. It is alleged that deceased played mischief with the computer and he sent some software through e-mail to various competitor. For this reason, accused No. 1 - Mr. Jigesh Shah submitted an application before the

police for the alleged act committed by the deceased, because of this deceased came under pressure and committed suicide. He also wrote suicide note. While perusing suicide note name of both the Petitioners are not mentioned, but name of accused Mr. Miki Shah and Mr. Jigesh Shah were mentioned in the suicide note. It is alleged that the deceased was under fear and pressure of both these accused and so he committed suicide. Allegation against present Petitioner of Criminal Misc. Application No. 5730 of 2011 is to the effect that he was present in the Police Station when accused - Mr. Jigesh Shah went to Police Station to give application against the deceased and allegation against present Petitioners of Criminal Misc. Application No. 5745 of 2011 is to the effect that both the Petitioners were on duty i.e. Constable and Head Constable, who interrogated and recorded statement of deceased. Except this allegation no allegations were made against any of the Petitioners.

5. Reliance is placed on decision of this Court in 2005 (3) GLH 444 A.K. Chaudhary and 2 Ors. v. State of Gujarat by the learned advocate for the Petitioners.

6. It is submitted by Mr. L.R. Pujari, learned APP for the State that taking into consideration role played by the Petitioners no offence is made out against them and appropriate order be passed.

7. In opinion of this Court ingredients of Section 107 of Indian Penal Code are attracted and prima facie it is found that no offence is made out against the present Petitioners.

8. In the result, Cri. Misc. Application Nos. 5730 and 5745 of 2011 are allowed. The complaint being C.R. No. 22 of 2011 registered before Adajan Police Station, and the proceedings therein are required to be quashed and are accordingly quashed. Rule is made absolute. Direct service is permitted.