

(2014) 07 GUJ CK 0102
In the Gujarat High Court

Case No : Criminal Misc. Application No. 9985 of 2014

Dipakbhai Govindram Motwani

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 09-07-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Gujarat Police Act, 1951 — Section 135
Penal Code, 1860 (IPC) — Section 323, 324

Citation : (2014) 07 GUJ CK 0102

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

Bench : Single Bench

Advocate : Hardeep L. Mahida, Advocate for the Appellant; Hansa B. Punani, APP and Nikhil S. Kariel, Advocate for the Respondent

Final Decision : Allowed

Judgement

R.M. Chhaya, J.—Heard Mr. Hardeep Mahida, learned advocate for the applicants, Ms. Hansa B. Punani, learned APP for respondent No. 1-State and Mr. Nikhil Kariel, learned advocate for respondent No. 2.

2. Rule. Ms. Hansa B. Punani, learned APP waives service of Rule on behalf of respondent No. 1-State and Mr. Nikhil Kariel, learned advocate waives service of Rule on behalf of respondent No. 2.

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 applicants and respondent No. 2 has been resolved amicably, this application is taken up for final disposal forthwith.

4. By way of this application u/s 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "the Code"), the applicants have prayed for quashing and setting aside FIR bearing CR No. I-276 of 2013 registered with Adipur Police Station for the commission of offence punishable under Sections 323, 324 of the

IPC and Section 135 of Gujarat Police Act as well as all other consequential proceedings arising out of the aforesaid FIR qua the applicants.

5. The learned advocate for the applicants 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 applicants. It is submitted that respondent No. 2 has filed an affidavit in these proceedings and has declared that the dispute between the applicants 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 u/s 482 of the Code and allow the application as prayed for.

6. The learned APP has candidly submitted that in view of the fact that the applicants and respondent No. 2 have amicably resolved the dispute, this Court may pass appropriate orders.

7. The learned advocate for respondent No. 2 has reiterated the contentions raised by the learned advocate for the applicants. The learned advocate for respondent No. 2 also relied upon the affidavit filed by respondent No. 2-Samatbhai Karamshibhai Rabari dated 9.7.2014. Respondent No. 2 is present in person before the Court and is identified by learned advocate for respondent No. 2. The learned advocate for respondent No. 2 has tendered a photocopy of the identity card issued by the Election Commission of India, identifying Rabari Abhubhai Karamshibhai, which is taken on record. The learned advocate for respondent No. 2 states that respondent No. 2-Samatbhai Karamshibhai Rabari is known as Rabari Abhubhai Karamshibhai. On inquiry made by the Court, respondent No. 2 has declared before this Court that the dispute between the applicants 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 in the cases of Gian Singh Vs. State of Punjab and Another, , Madan Mohan Abbot Vs. State of Punjab, , Nikhil Merchant Vs. Central Bureau of Investigation and Another, , Manoj Sharma Vs. State and Others, and Narinder Singh and Others Vs. State of Punjab and Another, , it appears that further continuation of criminal proceedings in relation to the impugned FIR against the applicants would be unnecessary harassment to the applicants. 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 Court and hence, to secure the ends of justice, the impugned FIR is required to be quashed and set aside in exercise of powers

conferred u/s 482 of the Code.

9. Resultantly, this application is allowed and the impugned FIR bearing CR No. I-276 of 2013 registered with Adipur Police Station filed against the present applicants is hereby quashed and set aside. Consequently, all other proceedings arising out of the aforesaid FIR are also quashed and set aside. Accordingly, Rule is made absolute. Direct service is permitted.