

(2014) 07 GUJ CK 0116
In the Gujarat High Court

Case No : Special Criminal Application (Quashing) No. 1714 of 2014

Durgvijaysinh

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 18-07-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Gujarat Police Act, 1951 — Section 135(1)
Penal Code, 1860 (IPC) — Section 143, 147, 148, 149, 307

Citation : (2014) 07 GUJ CK 0116

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

Bench : Single Bench

Advocate : Manjit A. Ahuja, Advocate for the Appellant; L.R. Poojari, APP and B.H. Solanki, Advocate for the Respondent

Judgement

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R.M. Chhaya, J.—Heard learned counsel for the respective parties.

2. Rule. Mr. L.R. Poojari, learned Additional Public Prosecutor waives service of notice of Rule on behalf of the respondent-State and Mr. B.H. Solanki, learned counsel waives service of notice of Rule on behalf of respondent Nos. 2 to 4-first informants. Mr. Solanki, learned counsel shall file his Vakalatnama on behalf of respondent Nos. 2 to 4-First Informant during the course of the day.

3. Considering the issue involved in the application and with consent of learned counsel appearing for the parties, this application is taken up for final disposal forthwith.

4. By way of this application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "the Code"), the applicant has prayed for quashing and setting aside FIR bearing C.R. No. I-40 of 2013 registered with Shaherkotda Police Station, Ahmedabad for the offences punishable under Sections 143, 147, 148, 149, 307 and 324 of the Indian Penal Code, 1860 and

Section 135(1) of the Gujarat Police Act.

5. Learned counsel for the applicant has submitted that the applicant and respondent No. 2-first informant have settled the dispute and therefore, any further continuance of the proceedings pursuant to the impugned FIR would create hardship to the parties. It was 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 was further submitted that some of the offence are non compoundable and in view of the fact that the parties have resolved the dispute, this Court has inherent jurisdiction as held in the case of Gian Singh Vs. State of Punjab & Anr., and hence, to secure the ends of justice, the impugned FIR as well as all other consequential proceedings arising out of the impugned FIR are required to be quashed in exercise of inherent jurisdiction of this Court u/s. 482 of the Code.

6. Learned Additional Public Prosecutor for respondent No. 1-State, has candidly submitted that in view of the fact that the parties have amicably resolved the dispute which was more of a personal nature, this Court may pass appropriate orders.

7. Learned counsel for respondent No. 2-first informant has tendered an affidavit filed by respondent No. 2, who is personally present in the Court and is identified by learned counsel for respondent No. 2. Upon further enquiry, Mr. Dharmendrasinh Abhesinh Barad-first informant has categorically stated before this Court that he has settled the dispute with the applicant and now no dispute remains. Therefore, present application deserves to be allowed as prayed for.

Learned counsel for respondent No. 2 also places on record a photocopy of the Identity Card issued by the Election Commission of India in order to establish the identity of respondent No. 2.

8. Having heard the learned counsel 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 & Anr., reported in 2009(1) GLH 31, Manoj Sharma Vs. State and Others, and Dimpey Gujral and Others Vs. Union Territory Through Administrator, U.T. Chandigarh and Others, , 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 under Section 482 of the Code.

9. Resultantly, present application is allowed. Impugned FIR bearing C.R. No. I-40 of 2013 registered with Shaherkotda Police Station, Ahmedabad, filed

against the present applicant is hereby quashed and set aside. Consequently, any other proceedings, if any, arising out of the aforesaid FIR, are also quashed and set aside. Accordingly, Rule is made absolute. Direct Service is permitted.