

(2023) 03 GUJ CK 0002

In the Gujarat High Court

Case No : R/Special Criminal Application No. 285 Of 2016

Haresh Lalsingh Gadhavi & 3 Other(S)

APPELLANT

Vs

State Of Gujarat & 1 Other(S)

RESPONDENT

Date of Decision : 02-03-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Protection Of Women From Domestic Violence Act, 2005 — Section 17, 18, 19, 20, 21

Citation : (2023) 03 GUJ CK 0002

Hon'ble Judges : Ilesh J. Vora, J

Bench : Single Bench

Advocate : Sanat B Pandya, Darshan Dave, Pranav Trivedi

Final Decision : Allowed

Judgement

Ilesh J. Vora, J

1. Mr. Darshan Dave, learned advocate for H.L. Patel Advocates, states that he has instructions to appear for and on behalf of respondent no.2 and he will file his Vakalatnama in the Registry. Registry is directed to accept the same. Learned advocate for respondent no.2 has placed on record the affidavit, same is taken on record.

2. By way of this application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "the Code"), the applicants have prayed for quashing and setting aside private complaint being Criminal Misc. Application No. 445 of 2015 registered before Vadodara Family Court, Vadodara for the offences punishable under Sections 17, 18, 19, 20, 21 of Domestic Violence Act, 2005 and to quash all other consequential proceedings arising out of the aforesaid complaint qua the applicants.

3. Heard learned advocate for the applicants and learned advocate for the respondent no.2 – complainant.

4. Both the learned advocates would submit that during the pendency of present petition, the matter is amicably settled amongst the parties and therefore, any further continuation of the proceedings pursuant to the impugned FIR would create hardship to the parties and further continuation of the proceedings would amount to abuse of process of law.

5. Learned APP has opposed the application and submitted that looking to averments made in the FIR, complaint may not be quashed.

6. The complainant – respondent No. 2 has filed affidavit stating inter-alia the fact that the matter is amicably settled with the applicants. The private respondent no.2 has confirmed the fact of settlement and contents of the affidavit in support of the petition.

7. Having heard the learned counsel for the parties and considering the facts of settlement and law laid down by the Apex Court [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),] this Court is of the considered view that further continuation of the criminal proceedings in relation to the impugned FIR would nothing but unnecessary harassment to the parties and trial thereon would be futile and further continuation of the proceedings would amount to abuse of process of law. Thus, 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.

8. Resultantly, this application is allowed and the private complaint being Criminal Misc. Application No. 445 of 2015 registered before Vadodara Family Court, Vadodara filed against present applicants is hereby quashed and set aside and all other proceedings arising out of aforesaid complaint are also quashed and set aside. Direct service permitted.