

(2008) 10 GUJ CK 0077
In the Gujarat High Court

Case No : Criminal Miscellaneous Application No. 14069 of 2008

Manish Maganbhai Patel and Others

APPELLANT

Vs

State of Gujarat and Another

RESPONDENT

Date of Decision : 24-10-2008

Acts Referred:

Bombay Police Act, 1951 — Section 135(1)
Constitution of India, 1950 — Article 226, 227
Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 143, 147, 148, 149, 294A

Citation : (2008) 10 GUJ CK 0077

Hon'ble Judges : D.H. Waghela, J

Bench : Single Bench

Advocate : Hardik Bharhmbhat, s 1 - 7, for the Appellant; I.M. Pandya, APP for Respondent 1, for the Respondent

Final Decision : Dismissed

Judgement

D.H. Waghela, J.—The present petition is filed u/s 482 of the Code of Criminal Procedure, 1973 and Articles 226 and 227 of the Constitution for quashing the complaint registered with Ellis Bridge Police Station of Ahmedabad as C.R. No. I-627 of 1999 pursuant to which investigation is carried out, chargesheet is filed and Criminal Case No. 5774 of 2005 is registered. The petition is pressed mainly on the ground that both the parties, i.e. the petitioners - accused persons and the original complainant, have agreed to settle the dispute and they are now jointly begging the Court to quash the complaint as the matter is compounded between the parties and a settlement deed is executed on 22.10.2008. The chargesheet or the report of investigation is not annexed to the petition. F.I.R. dated 15.09.1999 at annexure A to the petition reveals that offences punishable under Sections 143, 147, 148, 149, 323, 324, 327, 294A of IPC and Section 135(1) of the Bombay Police Act have been alleged against the accused persons. The allegations include the allegation of 15 people attacking the complainant with weapons and causing injury to three persons. Even before the petition can

be entertained for admission hearing and notice being issued to either of the respondents, learned Counsel Mr. Pratik Barot has appeared for the original complainant and submitted that the petition may be allowed so as to quash the criminal case. Even learned A.P.P. Mr. Pandya submitted that the petition may be allowed.

2. The petitioners have relied upon judgment of the Supreme Court in *B.S. Joshi and Others Vs. State of Haryana and Another*, in support of the submission that High Court, in exercise of its inherent powers, can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers u/s 482 of the Code. It is also observed in that judgment, on the basis of the judgment in *Madhavrao Jiwajirao Scindia and Others Vs. Sambhajirao Chandrojirao Angre and Others*, that it is for the High Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. Where, in the opinion of the court, chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the Court may, while taking into consideration the special facts of a case, also quash the proceedings. In *G.V. Rao v. L.H.V. Prasad*, it is observed that there may be many reasons for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, where it takes years to conclude and, in that process, the parties lose their "young" days in chasing their "cases" in different courts.

3. It is clear that criminal cases arising from matrimonial disputes stand on a different footing from other criminal cases. Later on in *Madan Mohan Abbot Vs. State of Punjab*, the Supreme Court emphasised that it would be advisable that in disputes, where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilised in deciding more effective and meaningful litigation. In the facts of that case, the dispute was found to be purely a personal one between two contesting parties and it arose out of extensive business dealing between them and there was absolutely no public policy involved in the nature of the allegations made against the accused.

4. In the facts of the present case not only that the full facts of the case, the details of the charge sheet, the Sections under which the accused persons are charged etc. are not revealed, but the parties appear to have come before this Court with a written settlement deed executed only two days back, while the complaint is already nine years old. It would be a travesty of justice if a criminal case involving allegations of riotous behaviour in public can be closed at the time when the trial ought to have been concluded and riotous behaviour alleged in the complaint is, by no means, a private and personal matter between the

complainant and the accused persons. The offences punishable under Sections 143, 147, 148, 149 are found in Chapter VIII of IPC, entitled: "Of offences against public tranquility". Therefore, even if the offences for which the accused persons are charged were compoundable, the Court would exercise its discretion reasonably in accordance with the provisions of Section 320 of the Code of Criminal Procedure, 1973. The provisions of Section 482 saves inherent powers of the High Courts to make such orders as may be necessary to give effect to order under the Code or to prevent abuse of the process of Court or otherwise to secure the ends of justice. The prayers of the petitioners, supported by the original complainant and, unfortunately even by learned A.P.P., do not appear to be calculated to secure the ends of justice; but, on the contrary, it would frustrate proper prosecution of the offences which have been admittedly investigated and where at least the petitioners are not discharged so far. It may also be pertinent to note that there are other alleged victims of the offences who are not before this Court and the complainant is not the only victim.

5. Under the above facts and circumstances, the Court does not find it a proper case to exercise its extraordinary jurisdiction u/s 482 of the Code of Criminal Procedure, 1973 and accordingly, the petition is dismissed with no order as to costs. During the course of dictation of the judgment, learned Counsel Mr. Hardik Brahmabhatt sought permission to withdraw the petition which request was rejected.