

(2011) 09 GUJ CK 0155
In the Gujarat High Court

Case No : Criminal Miscellaneous Application No. 12884 of 2011

Mohanbhai Lagdhirbhai Chauhan

APPELLANT

Vs

State of Gujarat and Another

RESPONDENT

Date of Decision : 16-09-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 376, 506(2)

Citation : (2011) 09 GUJ CK 0155

Hon'ble Judges : Rajesh H. Shukla, J

Bench : Single Bench

Advocate : N.P. Chaudhary and Tushar Chaudhary, for the Appellant; H.L. Jani, APP for Respondents 1 and Nirav K. Padhiyar, for Respondents 2, for the Respondent

Final Decision : Allowed

Judgement

Rajesh H. Shukla, J.—Rule. Learned A.P.P., Mr. H.L. Jani for the Respondent No. 1 State of Gujarat and Learned Counsel, Mr. Nirav Padhiyar for the Respondent No. 2-original complainant waive service of notice of rule. Learned Counsel, Mr. Padhiyar is permitted to file his Vakalatnama for Respondent No. 2.

2. The present application has been filed by the applicant u/s 482 of the Code of Criminal Procedure, 1973 for the prayer to quash and set aside FIR being C.R. No. I-159/2011 registered with Deesa City Police Station, District: Banaskantha dated 26.08.2011 and also to stay further investigation and proceedings of the aforesaid FIR pending the present application on the grounds mentioned in the application.

3. Heard learnedcounsel, Mr. Tushar Chaudhary for the applicant, learned A.P.P., Mr. H.L. Jani for the Respondent No. 1 State of Gujarat and Learned Counsel, Mr. Nirav K. Padhiyar for the Respondent No. 2-original complainant.

4. Learned Counsel, Mr. Chaudhary has submitted that affidavit has been filed by

the complainant, which is produced at Annexure-B, stating about the circumstances and the pressure, under which, the complaint came to be filed, which is also confirmed by the Learned Counsel appearing for the Respondent No. 2-original complainant.

5. In view of this affidavit and rival submissions, when it has been specifically stated by the complainant, who is adult that she is having an affair with the applicant original accused and their relationship was not approved of by the family members and she was pressurized to file complaint, it leaves the matter there suggesting that the complaint cannot be taken at its face value. Therefore, the present application deserves to be allowed and the impugned FIR may be quashed and set aside.

6. A useful reference can be made to the observations made by the Hon''ble Apex Court in a judgment in case of Madan Mohan Abbot Vs. State of Punjab, more particularly, in para No. 6, which reads as under:

We need to emphasize that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the 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 utilized in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law.

7. In the circumstances, the present application stands allowed in terms of Para No. 6(B). The impugned FIR being C.R. No. I-159/2011, for the offences punishable under Sections 376 and 506(2) of the Indian Penal Code registered with Deesa City Police Station, District: Banaskantha dated 26.08.2011 is hereby quashed and set aside. Rule is made absolute. Direct service is permitted.