

(2017) 11 GUJ CK 0025
In the Gujarat High Court
Case No : 9950 of 2013

NIRAJ CHANDRAKANT DHANANI & ORS.

APPELLANT

Vs

STATE OF GUJARAT & ANR.

RESPONDENT

Date of Decision : 24-11-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 482](#) - Saving of inherent powers of High Court
[Indian Penal Code, 1860](#), [Section 114](#),
[Section 506\(2\)](#), [Section 498\(A\)](#) -
Abettor present when offence is committed - Punishment for criminal ,intimidation -
Enticing or taking away or detaining with criminal intent a married woman
[Dowry Prohibition Act, 1961](#), [Section 3](#),
[Section 7](#) - Penalty for giving or taking dowry - Cognizance of
offences

Citation : (2017) 11 GUJ CK 0025

Hon'ble Judges : Biren Vaishnav

Bench : Single Bench

Advocate : DEEP D VYAS, ?NISHA M PARIKH, ? PRANAV TRIVEDI

Final Decision : Allowed

Judgement

1. The present application has been filed by the applicants praying for quashing of Criminal Complaint being C.R. No.II-4/2012 filed before the Savarkundla Town Police Station.

2. It is the case of the complainant who is the wife of the applicant No.1 that the applicants, six in number, NO.1 being the husband and 2 to 6 being the in-laws harassed her during the subsistence of her

marriage with the applicant No.1. It is her case that six to seven months prior to this complaint all of them had returned to Ahmedabad, as they suffered financial loss in their business at U.S.A. The applicants would approach her parents with demands for dowry and as her father could not entertain such request, she was locked up in a room and physically assaulted by her husband and in-laws. This complaint was filed on 28-01-2012.

3. Mr Deep D Vyas, learned advocate has appeared for the applicants and stated that the complaint lodged by the respondent No.2 under Section 498(A), 506(2) and 114 of the Indian Penal Code r/w. Sections 3 and 7 of the Dowry Prohibition Act is a misconceived complaint. According to Mr. Vyas, relying on the photocopies of the passports, annexed to this application it is his case that the applicants were not even present at the time when the complainant alleges that an offence was committed.

Mr Vyas further points out that by an order dated 30.11.2011, the Superior Court of Arizona Maricopa county, dissolved the marriage of the applicant and the complainant. Once such marriage was dissolved on 28.11.2011, under the signatures of both the applicant No.1 and the respondent No.2 and Court order was passed accordingly on 30.11.2011, the complaint itself, filed on 28.1.2012 was an after thought.

4. Mr Vyas has also invited my attention to the subsequent Memorandum of Understanding signed between the applicant No.1 and the respondent No.2 dated

12.01.2012 dissolving such marriage. According to Mr Vyas, therefore, the facts suggests that the complaint has been engineered only with a view to harass the applicants.

5. Ms Nisha Thakore, learned advocate for the respondent No.2, original complainant, stated that reading of the complaint itself makes it evident that during the subsistence of the marriage between her and the applicant No.1, she was harassed and demands for dowry were made. She was constrained to file the F.I.R as she was pressurized to give dowry. That she was pressurized to sign the document of divorce and such document produced with the petition were obtained under fraud and in affidavit to that effect has been filed. She further submitted that the Court should not interfere in such proceedings.

6. Having heard learned advocates for the respective parties, though the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure is restrictive, however, when facts explicitly point to situation where the complaint, on the face of it appears to be ingenuine, the Court would not refuse to step in.

7. After the marriage was solemnized between the applicant No.1 and the complainant / respondent No.2

in the year 2007, the respondent No.2 has only thought it fit to bring out the story of harassment and torture at the hands of her husband and in-laws after having accompanied them to the United States of America. Having agreed to mutually separate and having

obtained decree from the U.S Court on 30.11.2011 and having entered into a Deed of Divorce on 12.01.2012, the respondent No.2 original complainant has approached the police authorities only on 28.01.2012. Two and a half months after the decree of divorce has been passed.

Facts therefore suggest that the respondent No.2 initially having accompanied her husband and in-laws to the U.S returned with them to Ahmedabad. Not finding any alternative, under the pretext of being pressurized to obtain divorce in the United States, she approached the local police at Savarkundla and lodged the Report before the Police Station. This clearly is a after thought to extract her pound of flesh from her husband and her in-laws with whom she entered into a compromise and gave a decent burial to her matrimonial dispute on 12.01.2012.

8. Judicial notice can be taken of the fact that case is invoking Section 498(A) have been filed only with a view to create harassment to the family of the in-laws. This is one such case where on facts I find that the First Information Report engaging into a dispute with her in-laws was done purely with a view to cause harassment.

9. First Information Report so filed, is nothing but abuse of process of law. This Court should in exercise of jurisdiction under Section 482 of the Code of Criminal Procedure, in the facts of this case deems it fit to quash the complaint on hand.

10. Accordingly, C.R No.II-4/2012 before the

Savarkundla Town Police station is hereby quashed and set aside. The application is allowed. Rule is made absolute to the above extent.