

(2024) 04 GUJ CK 0097

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Quashing & Set Aside Fir/Order) No.
7947 Of 2024

Niruben @ Nayna Jaykumar Pujara & Ors

APPELLANT

Vs

State Of Gujarat & Anr

RESPONDENT

Date of Decision : 26-04-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 114, 323, 498A, 504, 506(2)

Citation : (2024) 04 GUJ CK 0097

Hon'ble Judges : Hasmukh D. Suthar, J

Bench : Single Bench

Advocate : Premal S Rachh, Asmita Patel

Final Decision : Allowed

Judgement

Hasmukh D. Suthar, J

[1.0] Learned advocate Mr. Fenil H. Bathiya states that he has instructions to appear on behalf of the original complainant and seeks permission to file his Vakalatnama, which is granted. Heard learned advocates for the respective parties.

[2.0] RULE. Learned advocates waive service of note of rule on behalf of the respective respondents.

[3.0] Considering the facts and circumstances of the case and since it is jointly stated at the Bar by learned advocates on both the sides that the dispute between the parties has been resolved amicably, this matter is taken up for final disposal forthwith.

[4.0] By way of this petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "CrPC"), the petitioners have prayed to quash and set aside the FIR being CR No.II-3019/2014 registered with Dhoraji Police Station, Rajkot Rural for the offences punishable under Sections 323, 504,

506(2) and 114 of the Indian Penal Code, 1860 and to quash all other consequential proceedings arising therefrom.

[5.0] Learned advocates for the respective parties submitted that during the pendency of proceedings, the parties have settled the dispute amicably and pursuant to such mutual settlement, the original complainant has also filed an Affidavit dated 03.04.2024 which is taken on record. In the Affidavit, the original complainant has categorically stated that the dispute with the petitioners has been resolved amicably and that she has no objection, if the present proceedings are quashed and set aside since there is no surviving grievance between them.

[6.0] Going through the record it appears that the impugned FIR is filed at the instance of respondent No.2 and has arisen out of matrimonial dispute but now the dispute has been amicably settled and affirming the fact of settlement, she has filed an affidavit which is produced with the petition at Annexure-C. In the present case, trial has yet not commenced and the parties have parted their ways by taking mutual divorce which has been recorded vide order dated 29.01.2018 in the proceedings of HMP No.7/2017. Further, the petitioners are not having any past antecedents.

[7.0] It is necessary to consider whether the power conferred by the High Court under section 482 of the CrPC is warranted. It is true that the powers under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. The Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage as the Hon'ble Supreme Court has decided in the case of Central Bureau of Investigation vs. Ravi Shankar Srivastava, IAS & Anr., reported in AIR 2006 SC 2872.

[8.0] Having heard learned advocates on both the sides and considering the facts and circumstances of the case as also the principle laid down by the Apex Court in the cases of (i) Gian Singh Vs. State of Punjab & Anr., reported in (2012) 10 SCC 303, (ii) Madan Mohan Abbot Vs. State of Punjab, reported in (2008) 4 SCC 582, (iii) Nikhil Merchant Vs. Central Bureau of Investigation & Anr., reported in 2009 (1) GLH 31, (iv) Manoj Sharma Vs. State & Ors., reported in 2009 (1) GLH 190 and (v) Narinder Singh & Ors. Vs. State of Punjab & Anr. reported in 2014 (2) Crime 67 (SC) as also considering the fact that complainant has personally remained present before this Court through virtual mode and stated that dispute is amicably settled between the parties. In this regard, it would be apposite to refer the decisions of the Apex Court in case of Abhishek vs. State of Madhya

Pradesh reported in 2023INSC779 / (Criminal Appeal No. 1457 of 2015) and in case of Preeti Gupta and another vs. State of Jharkhand and another [(2010) 7 SCC 667], it is observed that "this Court noted that the tendency to implicate the husband and all his immediate relations is also not uncommon in complaints filed under Section 498A IPC. It was observed that the Courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases, as allegations of harassment by husband's close relations, who were living in different cities and never visited or rarely visited the place where the complainant resided, would add an entirely different complexion and such allegations would have to be scrutinised with great care and circumspection". Further, the continuance of trial pursuant to the mutual settlement arrived at between the parties would be a futile exercise. Hence, to secure the ends of justice, it would be appropriate to quash and set aside the impugned FIR and all consequential proceedings initiated in pursuance thereof under Section 482 of the Cr.P.C..

[9.0] In the result, petition is allowed. The impugned FIR being CR No.II-3019/2014 registered with Dhoraji Police Station, Rajkot Rural as well as all consequential proceedings initiated in pursuance thereof including the are hereby quashed and set aside qua the petitioners herein. If the petitioners are in jail, the jail authority concerned is directed to release the petitioners forthwith, if not required in connection with any other case. Rule is made absolute to the aforesaid extent only. Direct service is permitted.