

(2014) 09 GUJ CK 0023
In the Gujarat High Court

Case No : Criminal Misc. Application (For Quashing and Set Aside FIR/Order) No. 14145 of 2014

Pratik Rajnibhai Patel

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 17-09-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Dowry Prohibition Act, 1961 — Section 3, 7

Penal Code, 1860 (IPC) — Section 114, 406, 498A, 504, 506(2)

Citation : (2014) 09 GUJ CK 0023

Hon'ble Judges : R.M. Chhaya, J

Bench : Single Bench

Advocate : Pravin Gondaliya, Advocate for the Appellant; Bhavik Pandya for U.M. Shastri, Advocates and L.R. Poojari, APP, Advocate for the Respondent

Judgement

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R.M. Chhaya, J.—By way of this application under Section 482 of the Code of Criminal Procedure, the applicants have prayed for quashing of First Information Report registered as C.R. No. I-19 of 2011 at Mahila Police Station, Baroda for the alleged offences under Sections 498A, 406, 504, 506(2) and 114 of Indian Penal Code and Sections 3 and 7 of the Dowry Prohibition Act.

2. Record of the application also indicates that chargesheet came to be filed on 10.11.2011 and as pointed out by learned advocate appearing for the parties that trial has not yet begun.

3. Mr. U.M. Shastri, learned advocate has instructions to appear on behalf of respondent No. 2. Mr. Shastri shall file his vakalatnama within two days.

4. With the consent of the counsel appearing for the respective parties, the matter is taken up for final hearing. Rule. Mr. L.R. Poojari, learned APP waives service of Rule for the State-respondent No. 1 and Mr. Bhavik Pandya, learned

advocate waives service of Rule for respondent No. 2.

5. Mr. Gondaliya, learned advocate appearing for the applicants has taken this Court to the allegations levelled in the First Information Report and has submitted that as such the dispute arose because of matrimonial disputes between applicant No. 1 and respondent No. 2-first informant. Mr. Gondaliya, learned advocate for the applicants has rightly drawn attention of this Court to the agreement of consent divorce Annexure "C" of this application and has submitted that applicant No. 1 and respondent No. 2 have agreed for customary divorce and accordingly, the applicant No. 1 through his power of attorney Rajnibhai Somabhai Patel who happens to be father of applicant No. 1 has entered into an agreement. Mr. Gondaliya, learned advocate submitted that parties have amicably resolved the issue which was of personal nature arising out of matrimonial disputes as stated earlier. Mr. Gondaliya, learned advocate submitted that any further continuance of criminal proceedings in pursuant to the impugned First Information Report would result into the harassment to the parties and as the parties have amicably resolved the issue, the trial would be futile. Mr. Gondaliya, learned advocate submitted that this Court may exercise inherent power under Section 482 of Code of Criminal Procedure in the interest of justice and may quash the impugned complaint as prayed for. Mr. Gondaliya, learned advocate appearing for the applicants has also relied upon the judgment of Gian Singh Vs. State of Punjab and Another, and other judgment of the Honourable Apex Court in the case of B.S. Joshi and Others Vs. State of Haryana and Another, .

6. Learned APP Mr. L.R. Poojari, appearing for the State-respondent No. 1 has submitted that in view of the fact that parties have amicably resolved the issue, which was of domestic nature arising out of matrimonial dispute, this Court may pass appropriate order.

7. Mr. Bhavik Pandya, learned advocate appearing for Mr. U.M. Shastri has tendered an affidavit of respondent No. 2-Tanviben. Mr. Pandya learned advocate also identified Ms. Tanviben who is personally present before this Court. Mr. Pandya, learned advocate produced on record the photocopy of PAN Card issued by Government of India to establish the identity of Ms. Tanviben. Ms. Tanviben has declared before this Court that they have amicably resolved the issue. Mr. Pandya, learned advocate tenders affidavit of Ms. Tanviben-opponent No. 2, the same is taken on record.

8. Considering the aforesaid facts and considering the judgments of Honourable Apex Court in the case of Gian Singh versus State of Punjab and Another (supra) and B.J. Joshi versus State of Haryana (supra), any further continuance of criminal proceedings in pursuant to the impugned FIR would result into harassment to the parties and in view of the fact that parties have amicably settled the issue, the trial would be futile and, therefore, in order to secure end of justice, this is a fit case of exercising of inherent power under Section 482 of Code of Criminal Procedure.

9. Resultantly, the present application is allowed. The impugned First Information Report registered as C.R. No. I-19 of 2011 at Mahila Police Station, Baroda for the offences under Sections 498A, 406, 504, 506(2) and 114 of Indian Penal Code and Sections 3 and 7 of the Dowry Prohibition Act and all consequential proceedings arising there from including the chargesheet qua the applicants are hereby quashed and set aside. Rule is made absolute to the aforesaid extent.

Direct service is permitted.