

(2014) 09 GUJ CK 0030

In the Gujarat High Court

Case No : Criminal Misc. Application (For Quashing and Set Aside FIR/Order) No. 13232 of 2014

Pravesh Victor Macwan

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 18-09-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Dowry Prohibition Act, 1961 — Section 3, 7

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

Citation : (2014) 09 GUJ CK 0030

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

Bench : Single Bench

Advocate : Shashikant Parmar, Advocate for the Appellant; Hansa B. Punani, APP and Rashmin D. Makwana, Advocate for the Respondent

Judgement

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R.M. Chhaya, J.—Heard the learned advocates appearing for the respective parties. Mr. Rashmin D. Makwana, learned advocate for respondent No. 2 shall file Vakalatnama by 23.9.2014.

2. Rule. Learned advocates appearing for the respective respondents waive service of Rule on behalf of the respective respondents.

3. Considering the issue involved in the present application and with consent of the learned advocates appearing for the respective parties as well as considering the fact that the dispute amongst the applicant and respondent No. 2 has been resolved amicably, this application is taken up for final disposal forthwith.

4. By way of this application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "the Code"), the applicant has prayed for quashing and setting aside FIR bearing CR No. I-65 of 2011 registered with Anand Mahila Police Station for the commission of offence punishable under

Sections 498A, 323, 504, 506(2), 114 of the IPC and Sections 3 and 7 of Dowry Prohibition Act as well as all other consequential proceedings arising out of the aforesaid FIR, including the charge-sheet qua the applicant.

5. At the outset, it is stated that this application is filed by accused No. 1 and therefore, any observations made in this judgment shall apply to accused No. 1 only. It may be noted that by a judgment and order dated 29.3.2014, the other accused namely accused Nos. 2 to 5 have been acquitted and therefore, this application relates only to accused No. 1. The record reveals that though the address of the applicant is shown as Anand, the applicant stays at Canada which is evident from the verification-cum-affidavit filed in this application.

6. The learned advocate for the applicant has taken this Court through the factual matrix arising out of the present application. At the outset, it is submitted that the parties have amicably resolved the issue which arose because of matrimonial dispute and therefore, any further continuance of the proceedings pursuant to the impugned FIR as well as any further proceedings arising therefrom would create hardship to the applicant. It is further submitted that in view of the fact that the dispute is resolved, the trial would be futile and any further continuance of the proceedings would amount to abuse of process of law. The learned advocate for the applicant relied upon the decisions of the Hon'ble Supreme Court in the cases of Gian Singh Vs. State of Punjab and Another, , Madan Mohan Abbot Vs. State of Punjab, , Nikhil Merchant Vs. Central Bureau of Investigation and Another, , Manoj Sharma Vs. State and Others, and Narinder Singh and Others Vs. State of Punjab and Another, . It is therefore submitted that this Court may exercise its inherent powers conferred under Section 482 of the Code and allow the application as prayed for.

7. The learned APP has candidly submitted that as the dispute arose because of matrimonial dispute and the applicant and respondent No. 2 have resolved the issue outside the Court, this Court may pass appropriate orders.

8. The learned advocate for respondent No. 2 has reiterated the contentions raised by the learned advocate for the applicant. The learned advocate for respondent No. 2 also relied upon the affidavit filed by respondent No. 2 dated 17.9.2014. Respondent No. 2 is present in person before the Court and is identified by learned advocate for respondent No. 2. The learned advocate for respondent No. 2 has tendered a photocopy of the Election Card, identifying respondent No. 2, which is taken on record. On inquiry made by the Court, respondent No. 2 has declared before this Court that the dispute between the applicant and respondent No. 2 is resolved due to intervention of trusted persons of the society and therefore, now the grievance stands redressed. It is therefore submitted that the present application may be allowed.

9. Having heard the learned advocates appearing for the respective parties, considering the facts and circumstances arising out of the present case as well as taking into consideration the decisions rendered in the cases of Gian Singh

(supra), Madan Mohan Abbot (supra), Nikhil Merchant (supra), Manoj Sharma (supra) and Narinder Singh (supra), it appears that further continuation of criminal proceedings in relation to the impugned FIR against the applicant would be unnecessary harassment to the applicant. It appears that the trial would be futile and further continuance of the proceedings pursuant to the impugned FIR would amount to abuse of process of law and Court and hence, to secure the ends of justice, the impugned FIR is required to be quashed and set aside in exercise of powers conferred under Section 482 of the Code.

10. Resultantly, this application is allowed and the impugned FIR bearing CR No. I-65 of 2011 registered with Anand Mahila Police Station filed against the present applicant is hereby quashed and set aside. Consequently, all other proceedings arising out of the aforesaid FIR, including the charge-sheet are also quashed and set aside qua the present applicant only. Accordingly, Rule is made absolute. Direct service is permitted.