

(2013) 04 GUJ CK 0001
In the Gujarat High Court

Case No : Criminal Miscellaneous Application (for Quashing and Set Aside Fir/ Order) No. 16101 of 2012

Pravin Ramlal Garg

APPELLANT

Vs

State of Gujarat and 1

RESPONDENT

Date of Decision : 01-04-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 114, 406, 408, 420

Citation : (2013) 04 GUJ CK 0001

Hon'ble Judges : S.R. Brahmbhatt, J

Bench : Single Bench

Advocate : M.M. Tirmizi, for the Appellant; Mahesh Bhavsar, Advocate for the Respondent No. 2 and Ms. A.C. Raval, Assistant Public Prosecutor for the Respondent No. 1, for the Respondent

Judgement

S.R. Brahmbhatt, J.—Heard learned advocates for the parties. Rule. Ms. Raval, learned APP waives service of notice of Rule on behalf of respondent no. 1 and Mr. Bhavsar, learned advocate waives service of notice of Rule on behalf of respondent no. 2. With the consent of learned advocates for the parties, Rule is fixed forthwith.

2. The petitioner has taken out this application invoking provision of Section 482 of Criminal Procedure Code for quashing the FIR being C.R. No: I-2/2010 registered with Vadinar Marine Police Station, for the offences punishable under sections 406, 420, 408 and 114 of Indian Penal Code and prayed for quashment of FIR.

3. Shri Bhavsar, learned advocate appearing for the respondent no. 2-complainant has submitted that he has filed his vakalatnama today and there is no grievance qua accused now and FIR be quashed. The said affidavit is taken on record.

4. Learned advocates for the parties have requested this Court to dispose of the

matter in terms of the affidavit filed by the complainant stating therein that the settlement have been arrived at between the parties and now there is no grievance between them.

5. Learned counsel for the petitioner has relied upon the decision of the Apex Court in case of (I) Gian Singh Vs. State of Punjab and Another, , (II) Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and Another, , as well as (III) the observations of this Court in case of Rajbha Babhbha @ Rajendrasinh Annirudhsinh Sarvaiya & Ors, in Criminal Misc. Application No. 260/2013 decided on 21/2/2013, and submitted that in light of the observations in these judgments the FIR in question deserves to be quashed. Learned advocate Shri Bhavsar appears for respondent no. 2 - original complainant and placed on record the affidavit filed by complainant in respect of the compromise arrived between the parties.

6. This Court is of the considered view that looking to the averments in FIR and affidavit of complainant if are considered in light of the observations of the Apex Court in case of Gian Singh (supra) and Jay Rajsinh (supra) and the observations of this Court in Criminal Misc. Application No. 260/2013, then, there exists no further scope of any other investigation in the matter, as it would amount to creating consternation to the parties for no reason and in light of this development conviction is not even remotely plausible. There is no offence against the human body. Therefore strictly following the observations of the Apex Court, this Court is of the view that continuation of the FIR and further proceeding would amount to leading to no result and would like to have the effect of disturbing the peace prevalent between the parties. The Court shall strive to perpetuate a situation where peace is prevailed rather than creating consternation of feuds between the parties. Looking to the nature of dispute, the court is of the view that quashment of the complaint would not in any manner prejudice to the public policy as such. Hence, the complaint is quashed. In view of this, the FIR being C.R. No: I-2 of 2010 registered with Vadinar Marine Police Station is hereby quashed and the subsequent proceedings arising there from are hereby quashed. Rule is made absolute to aforesaid extent. Direct service permitted.