

(2017) 03 GUJ CK 0031
In the Gujarat High Court
Case No : 6432 of 2017

RAKESHKUMAR RAMCHANDRA PATEL & ORS.

APPELLANT

Vs

STATE OF GUJARAT & ANR.

RESPONDENT

Date of Decision : 06-03-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 482](#) - Saving of inherent powers of High Court
[Indian Penal Code, 1860](#), [Section 120B](#), [Section 420](#), [Section 468](#), [Section 471](#), [Section 467](#), [Section 465](#), [Section 406](#) - Punishment of criminal conspiracy - Cheating and dishonestly inducing delivery of property - Forgery for purpose of cheating - Using as genuine a forged document - Forgery of valuable security, will, etc - Punishment for forgery - Punishment for Criminal breach of trust

Citation : (2017) 03 GUJ CK 0031

Hon'ble Judges : J.B.Pardiwala

Bench : Single Bench

Advocate : SHAKEEL A QURESHI, PATHAK

Final Decision : Allowed

Judgement

1. Rule returnable forthwith. Ms. Pathak, the learned Additional Public Prosecutor, waives service of notice of rule for and on behalf of the respondent No.1-State of Gujarat. Mr.

Mahesh Poojara, the learned advocate, has entered appearance on behalf of the respondent No.2-original complainant and waives service of notice of rule.

2. By this application under section 482 of the Code of Criminal Procedure, 1973, the petitioners seek to invoke the inherent powers of this court, praying for quashing of the first information report being I C.R. No. 140 of 2014 lodged before the Jalalpor Police Station of the offence punishable under sections 406, 420, 465, 467, 468, 471 and 120B of the Indian Penal Code and the Criminal

Case No.1270 of 2015 pending before the learned Chief Metropolitan Magistrate, Navsari on the ground that there has been an amicable settlement between the parties and the respondent No.2-original complainant is no longer desirous of prosecuting the first information report further. The respondent No.2-Ankitkumar Amrishbhai Desai is personally present and he confirms about the settlement arrived at with the accused persons. The respondent No.2-Ankitkumar Amrishbhai Desai is identified by his learned advocate Mr. Mahesh Poojara. Shri Ankitkumar Amrishbhai Desai has also filed an affidavit, inter alia, stating as under:

"I, Ankitkumar Amrishbhai Desai, aged 30 years, occupation: Doctor, respondent no.2 herein, residing at Deepmangal Society Grid, Kabilpor, Taluka/District Navsari, state on solemn affirmation that I have filed C.R. No.I-140 of 2014 registered before Jalalpor Police Station, for the alleged incident occurred between 18.03.2014 and 09.05.2014, for offences punishable under sections 406, 420, 465, 467, 468, 471 and 120B of the Indian Penal Code, against the petitioners herein. Nevertheless due to intervention of the social leaders and family friends, the matter has amicably been settled and the alleged agreement to sell has been cancelled by a separate document of cancellation of agreement to sell on 07.08.2015. A copy of cancellation agreement dated

07.08.2015 is annexed hereto and marked ANNEXURE-1 to this affidavit.

I say and submit that I and my family members have no grievance or grudge against the petitioners herein if the impugned complaint and proceedings thereof including the charge sheet are quashed.

In view of the above compromise we have reached the stage of complaisance and we enjoy complaisance with each other. Thus, absolute peace, tranquility and harmony have been established between the petitioners herein and the complainant's side. Therefore, now I have no objection if the impugned complaint and proceedings thereof are quashed against the petitioners herein.

I respectfully state and submit that the present affidavit is filed on my free will, without external interference or coercion.

Solemnly affirmed on this 1st day of March, 2017 at Navsari"

3. Taking into consideration the nature of the dispute and the fact that the parties have now amicably decided to live peacefully, no useful purpose would be served to allow the police to continue with the investigation of the said first information report.

4. In the result, this application is allowed. The first information report being I C.R. No. 140 of 2014 lodged before the Jalalpor Police Station and the Criminal Case No.1270 of 2015 pending before the learned Chief Judicial Magistrate, Navsari are hereby ordered to be quashed. All consequential proceedings arising from the same also stand terminated. Rule is made absolute. The Registry shall accept the Vakalatnama of Mr. Mahesh Poojara, the learned advocate appearing

on behalf of the respondent No.2.

Direct service is permitted.