

(2011) 04 GUJ CK 0140
In the Gujarat High Court

Case No : Criminal Miscellaneous Application No. 3824 of 2011

Sanjaysinh Metubha Jhala and Others	APPELLANT
Vs	
State of Gujarat and Another	RESPONDENT

Date of Decision : 13-04-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 114, 420, 465, 467, 468

Citation : (2011) 04 GUJ CK 0140

Hon'ble Judges : M.D. Shah, J

Bench : Single Bench

Advocate : Kirit R. Chaudhari, for the Appellant; M.L. Shah, Additional Public Prosecutor and Mahesh P. Patel, for Respondent 2, for the Respondent

Final Decision : Allowed

Judgement

M.D. Shah, J.—Rule. Learned Addl. Public Prosecutor, Ms. M.L. Shah and learned advocate, Mr. Mahesh P. Patel, waive service of rule on behalf of the Respondent Nos. 1 and 2 respectively.

2. The present application u/s 482 of the Code of Criminal Procedure has been filed for quashing of FIR registered as I.C.R. No. 10 of 2011 before Patadi Police Station, for the offences punishable under Sections 420, 465, 467, 468, 471 and 114 of IPC in pursuance of complaint filed by the Respondent No. 2-complainant.

3. Heard learned advocate, Mr. Kirit R. Chaudhari for the Petitioners, learned Addl. Public Prosecutor, Ms. M. L. Shah for the Respondent No. 1 and learned advocate Mr. Mahesh P. Patel, for the Respondent No. 2.

4. It is submitted by the learned advocate for the Petitioners that matter is settled between the parties and now Respondent No. 2 - ori. complainant has no grievance against the present Petitioner and requests to quash the complaint. On behalf of Respondent No. 2 learned advocate Mr. Mahesh P. Patel has filed Vakalatnama and he is identified by the learned advocate.

5. It is submitted by the original complainant - Respondent No. 2 that the matter is amicably settled between the parties. An affidavit dated 7.4.2011 of Respondent No. 2 - ori. complainant to this effect is also placed on record, which is ordered to be taken on record. The complainant has submitted that the matter is settled between the parties and the settlement is not under any duress. It is further submitted that now he has no grievance against the Petitioners.

6. The Apex Court in the case of Madan Mohan Abbot Vs. State of Punjab, has observed as under in paras 5 and 7 of the judgment:

5. It is on the basis of this compromise that the application was filed in the High Court for quashing of proceedings which has been dismissed by the impugned order. We notice from a reading of the FIR and the other documents on record that the dispute was purely a personal one between two contesting parties and that it arose out of extensive business dealings between them and that there was absolutely no public policy involved in the nature of the allegations made against the accused. We are, therefore, of the opinion that no useful purpose would be served in continuing with the proceedings in the light of the compromise and also in the light of the fact that the complainant has, on 11th January 2004, passed away and the possibility of a conviction being recorded has thus to be ruled out."

7. We see from the impugned order that the learned Judge has confused a compounding of an offence with the quashing of proceedings. The outer limit of Rs. 250/- which has led to the dismissal of the application is an irrelevant factor in the later case. We accordingly allow the appeal and in the peculiar facts of the case, direct that FIR No. 155 dated 17th November 2001 P.S. Kotwali, Amritsar and all proceedings connected therewith shall be deemed to be quashed.

7. Applying the ratio of the aforesaid decision of the Apex Court to the facts of the present case, I am of the opinion that this Cri. Misc. Application is required to be allowed and the parties be permitted to compound the offence.

8. In the result, this Cri. Misc. Application is allowed. The complaint being I.C.R. No. 10 of 2011 registered before Patadi Police Station, and the proceedings therein are required to be quashed and are accordingly quashed. Rule is made absolute. Direct service is permitted.