

(2014) 07 GUJ CK 0091
In the Gujarat High Court

Case No : Criminal Misc. Application No. 10079 of 2014

Shailesh Pravinbhai Gadhvi

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 10-07-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Gujarat Police Act, 1951 — Section 135(1)
Penal Code, 1860 (IPC) — Section 114, 504, 506(2)

Citation : (2014) 07 GUJ CK 0091

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

Bench : Single Bench

Advocate : Kandrap H. Dholkia, Advocate for the Appellant; Hansa Punani, APP and Tushar L. Sheth, Advocate for the Respondent

Final Decision : Allowed

Judgement

R.M. Chhaya, J.—Heard learned counsel for the respective parties.

2. Rule. Ms. Hansa Punani, learned Additional Public Prosecutor waives service of notice of Rule on behalf of the respondent-State and Mr. Tushar L. Sheth, learned counsel waives service of notice of Rule on behalf of respondent No. 2-first informant. Mr. Sheth, learned counsel shall file his Vakalatnama on behalf of respondent No. 2-First Informant latest by 11.07.2014.

3. Considering the issue involved in the application and with consent of learned counsel appearing for the parties, this application is taken up for final disposal forthwith.

4. By way of this application u/s 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "the Code"), the applicants have prayed for quashing and setting aside FIR bearing C.R. No. II-378 of 2014 registered with City "A" Division Police Station, Jamnagar for the offences punishable under Sections 504, 506(2) and 114 of the Indian Penal Code, Section 135(1) of the Gujarat Police

Act and Sections 5, 9, 30 and 33 of the Money Landing Act.

5. Learned counsel for the applicants has submitted that the applicants and respondent No. 2-first informant have settled the dispute and therefore, any further continuance of the proceedings pursuant to the impugned FIR would create hardship to the parties and on the contrary, would be detrimental to the relations between the applicants and respondent No. 2. It was 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. Therefore, this Court may exercise its inherent powers conferred u/s 482 of the Code and allow the present application as prayed for.

6. Learned Additional Public Prosecutor for respondent No. 1-State, has candidly submitted that in view of the fact that the parties have amicably resolved the dispute which was more of a personal nature, this Court may pass appropriate orders.

7. Learned counsel for respondent No. 2-first informant has tendered an affidavit dated 09.07.2014 filed by respondent No. 2, who is personally present in the Court and is identified by learned counsel for respondent No. 2. Upon further enquiry, Mr. Jayesh Radhakishanbhai Atlani-first informant has categorically stated before this Court that because of intervention of respective members of the society, he has settled the dispute with the applicants, which was of predominantly of private nature and therefore, present application deserves to be allowed.

Learned counsel for respondent No. 2 also places on record a photocopy of Aadhar Card in order to establish the identity of respondent No. 2.

8. Having heard the learned counsel appearing for the respective parties, considering the facts and circumstances arising out of the present application as well as taking into consideration the decisions rendered 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 Dimpey Gujral and Others Vs. Union Territory Through Administrator, U.T. Chandigarh and Others, , it appears that further continuation of criminal proceedings in relation to the impugned First Information Report against the applicants would be unnecessary harassment to the applicants. 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 u/s 482 of the Code.

9. Resultantly, present application is allowed. Impugned FIR bearing C.R. No. II-378 of 2014 registered with City "A" Division Police Station, Jamnagar, filed against the present applicants is hereby quashed and set aside. Consequently, any other proceedings, if any, arising out of the aforesaid First Information

Report, are also quashed and set aside. Accordingly, Rule is made absolute. Direct Service is permitted.