

(2020) 07 GUJ CK 0110
In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 10380 Of 2020

Swapnil Vinodchndra Bhatt

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 30-07-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 406, 420
Information Technology Amendment Act, 2008 — Section 66D

Citation : (2020) 07 GUJ CK 0110

Hon'ble Judges : A.J.Desai, J

Bench : Single Bench

Advocate : Sanat B Pandya, Kamlesh Kotai, Krina Calla

Final Decision : Allowed

Judgement

A.J.Desai, J

1. Heard the learned advocates appearing for the respective parties. Learned advocate Mr. Kamlesh Kotai states that he has an instructions to appear

for the respondent No.2 â?" complainant. He is directed to file his appearance forthwith.

2. Rule. Learned Additional Public Prosecutor as well as learned advocate appearing for the Complainant 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 F.I.R. No.11207028200022 of 2020 registered with Halol Police Station, Dist. Panchmahals for the commission of offence punishable under Sections 406 and 420 of the Indian Penal Code and Section 66-D of the Information Technology Amendment Act, 2008 as well as all other consequential proceedings arising out of the aforesaid FIR qua the applicant.

5. 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 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 submitted that respondent No.2 has filed an affidavit in these proceedings and has declared that the dispute between the applicant and respondent No.2 is resolved due to intervention of trusted persons of the society. 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. 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.

6. Learned Additional Public Prosecutor appearing for the State has opposed the present application and submitted that considering the seriousness of the offence, the complaint in question may not be quashed and the present application may be rejected.

7. Mr. Kamlesh Kotai, 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 7.7.2020 which is annexed along with the present petition. Mr. Kotai states that the complainant has no objection if the FIR in question is quashed and set aside. It is therefore submitted that the present application may be allowed.

8. Having heard the learned advocates 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 by the

Hon'ble Supreme Court in the cases of Gian Singh Vs. State of Punjab & Anr., reported in (2012) 10 SCC 303, Madan Mohan Abbot Vs. State of Punjab, reported in (2008) 4 SCC 58,2 Nikhil Merchant Vs. Central Bureau of Investigation & Anr., reported in 2009 (1) GLH 31, Manoj Sharma Vs. State & Ors., reported in 2009 (1) GLH 190 and Narinder Singh & Ors. Vs. State of Punjab & Anr. reported in 2014 (2) Crime 67 (SC), it appears that further continuation of criminal proceedings in relation to the impugned FIR against the applicant would be unnecessary harassment to the applicant. I have also considered the latest decision of the Hon'ble Supreme Court in the case of Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others v. State of Gujarat, Criminal Appeal No.1723 of 2017 dated 4.10.2017 and the guidelines issued by the Hon'ble Supreme Court in the said decision, particularly paragraph 15. Considering the nature of disputes between the parties which are all private in nature, I am of the opinion that the matter requires consideration. 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 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.

9. Resultantly, this application is allowed and the impugned F.I.R. No.11207028200022 of 2020 registered with Halol Police Station, Dist. Panchmahals

is hereby quashed and set aside qua the applicant. Consequently, all other proceedings arising out of the aforesaid F.I.R. are also quashed and set aside qua the applicant. Accordingly, Rule is made absolute.

10. Direct service is permitted. Registry to communicate this order to the concerned Court/authority by Fax or Email forthwith.