

(2014) 07 GUJ CK 0090

In the Gujarat High Court

Case No : Criminal Misc. Application (For Quashing & Set Aside Fir/Order)
No. 10145 of 2014

Thakor Viramji Kaluji

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 09-07-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Gujarat Police Act, 1951 — Section 135
Penal Code, 1860 (IPC) — Section 324, 326, 395, 397, 504

Citation : (2014) 07 GUJ CK 0090

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

Bench : Single Bench

Advocate : Bhavik J. Pandya, Advocate for the Appellant; L.R. Poojari, APP,
Advocate for the Respondent

Final Decision : Allowed

Judgement

R.M. Chhaya, J.—Heard learned Advocates appearing on behalf of the respective parties.

2. Rule. Mr. L.R. Poojari, learned APP. waives service of Rule on behalf of respondent-State and Mr. Shreekar Bhatt, learned Advocate waives service of Rule on behalf of respondent No. 2. Mr. Shreekar Bhatt, learned Advocate shall file his Vakalatnama for respondent No. 2 within two days.

3. Considering the issue involved in the present application and with consent of the learned Advocates appearing on behalf of the respective parties as well as considering the fact that the dispute amongst the applicants and respondent No. 2 has been resolved amicably, 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 applicant has prayed for quashing and

setting aside FIR bearing CR No. I. 45 of 2013 registered at Sankheswar Police Station, District Patan for the commission of offence punishable under Sections 395, 397, 326, 324, 504 and 506(2) of Indian Penal Code and u/s 135 of Gujarat Police Act as well as all other consequential proceedings arising out of the aforesaid FIR qua the applicants.

5. The learned Advocate for the applicants 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 dispute and therefore, any further continuation of the proceedings pursuant to the impugned FIR as well as any further proceedings arising therefrom would create hardship to the applicants. It is submitted that respondent No. 2 has filed an affidavit in these proceedings and has declared that since the dispute between the applicants and respondent No. 2 is personal in nature and due to intervention of respected members of the society, the dispute has been resolved. It is further submitted that in view of the fact that the dispute is resolved, the trial would be futile and any further continuation of the proceedings would amount to abuse of process of law. It is therefore submitted that this Court may exercise its inherent powers conferred u/s 482 of the Code and allow the application as prayed for.

6. The learned Advocate for respondent No. 2 has reiterated the contentions raised by the learned Advocate for the applicants. The learned Advocate for respondent No. 2 also relied upon the affidavit filed by respondent No. 2 Lalabhai Kacharabhai Bharawad dated 4.7.2014. On inquiry made by the Court, respondent No. 2 has declared before this Court that since the dispute between the applicants and respondent No. 2 is personal in nature and due to intervention of respected members of the society, they have amicably resolved the dispute and therefore, now the grievance stands redressed. It is therefore submitted that the present application may be allowed.

7. Mr. Lalabhai Kacharabhai Bharawad, respondent No. 2 is personally present before this Court and is identified by Mr. Shreekar Bhatt, learned Advocate for respondent No. 2. Mr. Lalabhai Kacharabhai Bharawad has declared before this Court that the dispute is settled by the intervention of the reputed persons of the society.

8. The learned APP has candidly submitted that in view of the fact that the applicants and respondent No. 2 have amicably resolved the dispute, this Court may pass appropriate orders.

9. 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 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 Narinder Singh and Others Vs. State of Punjab and Another, , it appears that further continuation of criminal proceedings

in relation to the impugned FIR against the applicants would amount to unnecessary harassment to the applicants. It appears that the trial would be futile and further continuation 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.

10. Resultantly, this application is allowed and the impugned FIR bearing CR No. I. 45 of 2013 registered at Sankheswar Police Station, District Patan against the present applicants is hereby quashed and set aside. Consequently, all other proceedings arising out of the aforesaid FIR are also quashed and set aside. Accordingly, Rule is made absolute. Direct service is permitted.