

(2021) 07 GUJ CK 0037
In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 11270 Of 2021

Vikram Biharibhai Khakhar Through Poa Biharibhai Nanalal Khakhar APPELLANT

Vs

State Of Gujarat RESPONDENT

Date of Decision : 19-07-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 114, 354, 406, 420, 498A
Dowry Prohibition Act, 1961 — Section 3, 7

Citation : (2021) 07 GUJ CK 0037

Hon'ble Judges : Vipul M. Pancholi, J

Bench : Single Bench

Advocate : Manish J Patel, C B Upadhyaya, Dharmesh Devnani

Final Decision : Allowed

Judgement

Vipul M. Pancholi, J

1. With the consent of learned advocates appearing for the parties, present application is taken up for final disposal today.

2. Rule. Learned APP Mr. Dharmesh Devnani for respondent no.1 and learned advocate, Mr. C. B. Upadhyaya for respondent no.2 waive service of notice of Rule.

3. By way of the present application under Section 482 of the Code of Criminal Procedure, 1973 (for short, the "Code"), the applicant prays for quashing and setting aside the FIR being I-C.R.No.161 of 2015 registered with Isanpur Police Station, Ahmedabad for the offence punishable under Sections 498(A), 406, 420, 354 and 114 of the Indian Penal Code and under Sections 3 & 7 of the Dowry Prohibition Act.

4. Heard learned advocate Mr. Manish J. Patel for the applicant, learned APP Mr. Dharmesh Devnani for respondent No.1 and learned advocate Mr.

C.

B. Upadhyaya for the respondent No.2 " original complainant, who is permitted to file his Vakalatnama in the Registry. I have also heard the

respondent no.2 " original complainant through Video Conferencing. Learned advocate Mr.

C. B. Upadhyaya for the respondent No.2 - original complainant further submits that the original complainant " Rituben Maheshkumar Thakker may

be permitted to join the meeting. Permission granted. Upon joining the meeting, original complainant is identified by learned advocate Mr. C. B.

Upadhyaya. Upon inquiry being made by this Court, the original complainant confirms the fact about settlement and she further confirms that she does

not have any objection if the impugned complaint is quashed by this Court. Learned advocate Mr. C. B. Upadhyaya further submits that an affidavit of

the respondent No.2 is filed on 22nd June, 2021, which is placed on record at page No.20 of the compilation. He, therefore, requests this Court for

quashing of the complaint impugned herein.

5. Learned advocate for the applicant has stated in paragraph No.4.3 of the petition as under :-

"4.3.. It is submitted that, during pendency of the said proceeding, a matter amicably settled between the parties and a consent Divorce petition

being Family Suit No.275 of 2021 has been filed before Ld. Family Court, Ahmedabad, wherein it has been agreed by the parties that, total alimony

amount of Rs.14,00,000/- as agreed and same was deposited before Ld. Family Court and will be given to resp. No.2 wife after the decision by the

Ld. Family Court. It has also been agreed that, after giving examination in chief by the Resp. No.2 wife before Ld. Family Court in Consent Divorce

petition, she has to give consent for quashing of FIR filed by her against the husband and In-laws. All their belongings have been taken by the parties,

so now nothing remain pending, so this petition by consent of the parties has been filed."

Learned advocate for the applicant under the instructions of the applicant submitted that the amount of Rs.14.00 Lakhs which has been deposited

before the concerned Family Court will be given to respondent No.2 " wife after

the decision of the learned Family Court and the petitioner will abide by the same undertaking given before this Court. It is required to be noted at this stage, that there is a reference of Rs.14.00 lakhs in the affidavit filed by the respondent No.2.

6. Learned advocate for the applicant has taken this Court through the factual matrix arising out of the present application.

7. At the outset, it is submitted that the parties have amicably resolved the dispute. In support of such submission made at bar by the learned advocates appearing for the respective parties, they have placed on record affidavit of settlement of dispute duly signed by the respondent No.2 â? complainant.

8. Since now, the dispute with reference to the impugned FIR is settled and resolved by and between parties, which is confirmed by the original complainant through his learned advocate, the trial would be futile and any further continuation of proceedings would amount to abuse of process of law. Therefore, the impugned FIR is required to be quashed and set aside.

9. Resultantly, this application is allowed. The impugned FIR being I-C.R.No.161 of 2015 registered with Isanpur Police Station, Ahmedabad and all other consequential proceedings arising out of said FIR are hereby quashed and set aside qua the applicant only.

10. Rule is made absolute to the aforesaid extent. Direct service is permitted.