

(2017) 02 GUJ CK 0041
In the Gujarat High Court
Case No : 2754 of 2017

VITHTHALBHAI ISHWARBHAI TALPADA & ANR.

APPELLANT

Vs

STATE OF GUJARAT & ANR.

RESPONDENT

Date of Decision : 06-02-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 482](#) - Saving of inherent powers of High Court
[Indian Penal Code, 1860](#), [Section 420](#),
[Section 114](#), [Section 406](#) -
Cheating and dishonestly inducing delivery of property - Abettor present when offence is committed - Punishment for Criminal breach of trust

Citation : (2017) 02 GUJ CK 0041

Hon'ble Judges : J.B.Pardiwala

Bench : Single Bench

Advocate : K I KAZI, THAKORE

Final Decision : Allowed

Judgement

1. Rule returnable forthwith. Ms. Thakore, the learned Additional Public Prosecutor, waives service of notice of rule for and on behalf of the respondent No.1-State of Gujarat. Mr. A.A. Zabuawala, the learned advocate, has entered appearance on behalf of the respondent No.2-original complainant and waives service of notice of rule.

2. By this application under section 482 of the Code of Criminal Procedure, 1973, the petitioners seek to invoke the inherent powers of this court, praying for quashing of the first information report being I C.R. No. 34 of 2016 lodged before the Khambhat Rural Police Station, Anand of the offence punishable under sections 406, 420 read with section 114 of the Indian Penal Code on the ground that there has been an amicable settlement between the parties and the respondent No.2-original complainant is no longer desirous of prosecuting the first information report further. The respondent No.2- Maheshbhai Mangalbhai Vaghari is personally present and he confirms about the settlement arrived at

with the accused persons. The respondent No.2-Maheshbhai Mangalbhai Vaghari is identified by his learned advocate Mr. A.A. Zabuawala. Shri Maheshbhai Mangalbhai Vaghari has also filed an affidavit, inter alia, stating as under:

"I, Maheshbhai Mangalbhai Vaghari, age-24 years (male), Occupation- business, R/o Waghari Was, Village-Jalundh, Taluka- Khambat, District- Anand, Mobile: 8160062446- respondent no.2 herein, do hereby state on solemn affirmation as under:-

1. The respondent No.2 lodged the complaint being I- Crime Register No.34 of 2016 dated 25.04.2016 registered with Khambat Rural Police Station, District Anand for the offences punishable under section 406, 120, 114 of the Indian Penal Code against the petitioners.

2. It is further submitted that presently, the respondent No.2 is giving consent to not to initiate any proceedings against the present applicant as entire issue has already been amicable settled between the parties. It is further submitted that upon reading the FIR, it appears that there is dispute of money, however, disputed amount is already received by the respondent no.2 from the accused and thus, entire disputes is already settled between the respondent no.2 and the present petitioners in connection with I-Crime Register No.34 of 2016 dated 25.04.2016 registered with Khambat Rural Police Station, District Anand for the offences punishable under section 406, 420, 114 of the Indian Penal Code; thus, present complaint requires to be quashed and set aside on this ground of amicable settlement between the parties.

What is stated hereinabove is true to the best of my knowledge information and belief and I believe the same to be true.

3. Taking into consideration the nature of the dispute and the fact that the parties have now amicably decided to live peacefully, no useful purpose would be served to allow the police to continue with the investigation of the said first information report.

4. In the result, this application is allowed. The first information report being I C.R. No. 34 of 2016 lodged before the Khambat Rural Police Station, Anand is hereby ordered to be quashed. All consequential proceedings arising from the same also stand terminated. Rule is made absolute. The Registry shall accept the Vakalatnama of Mr. A.A. Zabuawala, the learned advocate appearing on behalf of the respondent No.2.

Direct service is permitted.