

(2024) 02 GUJ CK 0042**Gujarat High Court**

Case No: R/Criminal Misc.Application (For Quashing & Set Aside Fir/Order) No. 22031 Of
2023

Mukeshbhai Bhikhubhai

APPELLANT

Bhesaniya

Vs

State Of Gujarat

RESPONDENT

Date of Decision: Feb. 12, 2024

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 482
- Indian Penal Code, 1860 - Section 294(b), 354(A)(B)

Hon'ble Judges: Hasmukh D. Suthar, J

Bench: Single Bench

Advocate: Dr. Hardik K Raval, Devangi B Solanki, Manan Mehta

Final Decision: Allowed

Judgement

Hasmukh D. Suthar, J

1. RULE. Learned advocates waive service of notice of rule on behalf of the respective respondents.

2. Considering the facts and circumstances of the case and since it is jointly stated at the Bar by learned advocates on both the sides that the dispute between the parties has been resolved amicably, this matter is taken up for final disposal forthwith.

3. By way of this application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C."), the applicant has prayed to quash and set aside the complaint being FIR CR No.11191007220637 of 2022 registered with Bapunagr Police Station, Ahmedabad for the offences under Sections 354(A)(B) and 294 (b) of Indian Penal Code, 1860 and all the consequential proceedings arising therefrom.

4. Learned advocates for the respective parties submitted that during the pendency of proceedings, the parties have settled the dispute amicably and pursuant to such mutual settlement, the original complainant has also filed an Affidavit, which is taken / placed on record. In the Affidavit, the original complainant has categorically stated that the dispute with the applicant/s has been resolved amicably and that he has no objection, if the present proceedings are quashed and set aside since there is no surviving grievance between them.

5. It appears from the complaint that when the complainant was near her house in the morning, Mukeshbhai-petitioner was cleaning the stairs with water. The complainant requested Mukeshbhai to clean the stairs on the fourth floor. Mukeshbhai-petitioner started quarreling with the complainant, hurling abusive words, and spraying water upon her. He then grabbed her waist and tore her payjama, leading to the filing of this complaint. However, the matter is settled between the parties and complainant has no objection if the complaint is quashed. Therefore, no fruitful purpose would be served to proceed with the matter.

6. Having heard learned advocates on both the sides and considering the facts and circumstances of the case, it appears that as also the principle laid down by the Apex Court in the cases of (i) Gian Singh Vs. State of Punjab & Anr., reported in (2012) 10 SCC 303, (ii) Madan Mohan Abbot Vs. State of Punjab, reported in (2008) 4 SCC 582, (iii) Nikhil Merchant Vs. Central Bureau of Investigation & Anr., reported in 2009 (1) GLH 31, (iv) Manoj Sharma Vs. State & Ors., reported in 2009 (1) GLH 190 and (v) Narinder Singh & Ors. Vs. State of Punjab & Anr. reported in 2014 (2) Crime 67 (SC), in the opinion of this Court, the further continuation of criminal proceedings against the applicant/s in relation to the impugned FIR would cause unnecessary harassment to the applicant/s. Further, the continuance of trial pursuant to the mutual settlement arrived at between the parties would be a futile exercise. Hence, to secure the ends of justice, it would be appropriate to quash and set aside the impugned FIR and all consequential proceedings initiated in pursuance thereof under Section 482 of the Cr.P.C..

7. In the aforesaid backdrop, complaint is filed. It is necessary to consider whether the power conferred by the High Court under section 482 of the Code of Criminal Procedure is warranted. It is true that the powers under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. The Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a *prima facie* decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage as the Hon'ble Supreme Court has decided in the case of Central Bureau of Investigation vs. Ravi Shankar Srivastava, IAS & Anr., reported in AIR 2006 SC 2872.

8. In the result, the application is allowed. The impugned complaint being CR No.11191007220637 of 2022 registered with Bapunagr Police Station, Ahmedabad as well as all consequential proceedings initiated in pursuance thereof are hereby quashed and set aside qua the applicant/s herein. Rule is made absolute. Direct service is permitted. If the applicant/s is/are in jail, the jail authority concerned is directed to release the applicant/s forthwith, if not required in connection with any other case.