IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO. 12047 of 2020

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NILESHBHAI MEGHJIBHAI LAKHANI

Versus

STATE OF GUJARAT

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Appearance:
MALAYKUMAR S PATEL(8901) for the Applicant(s) No. 1
MR. AAMIR S PATHAN(7142) for the Respondent(s) No. 2
MR.MANAN MEHTA APP(2) for the Respondent(s) No. 1
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CORAM:**HONOURABLE MR. JUSTICE R.P.DHOLARIA**

Date : 15/12/2020

ORAL ORDER

1. On 27.08.2020, this Court passed following order:

> *Mr. Malaykumar Patel, learned advocate for the applicant submits that the present applicant has got married with the victim on attaining the age of majority, and at present, both are residing together. He further submits that the matter has already been settled outside the Court.*
>
> *Issue Rule for final disposal making it returnable on 11.09.2020. Learned APP waives service of notice of rule for and on behalf of respondent – State.*
>
> *Registry shall accept the Vakalatnama as well as relevant documents of learned advocate for the private respondent(s).*

2. In pursuance of the aforesaid order, Mr. Aamir Pathan, learned advocate for respondent No.2 places on record the affidavit duly sworn by the victim, which is at page No.13. He further states that he has already filed affidavit duly sworn by the original complainant before the Registry and he also ensures that he shall place it on record.

3. Heard the learned advocates appearing for the respective parties through video conferencing.

4. 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 original complainant – private respondent(s) has been resolved amicably, this application is taken up for final disposal forthwith.

5. 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 FIR bearing CR No.I-40 of 2018 registered with Mangrol Police Station, Dist.-Surat (Rural) as well as all other consequential proceedings arising out of the aforesaid FIR qua the applicant.

6. 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 as well as victim have filed affidavits in these proceedings and have declared that the dispute between the applicant and respondent No.2 is resolved. 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.

7. 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.

8. 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 affidavits filed by **respondent No.2-original complainant- Labhubhai Babubhai Chavda** as well as victim. The complainant states that the matter is settled between the parties and also admits the contents of the Affidavit. Respondent No.2 as well as victim are present in person in the chamber of learned advocate for the respondent No.2 and is identified by learned advocate for respondent. It is therefore submitted that the present application may be allowed.

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 & Anr.**, reported in **(2012) 10 SCC 303**, **Madan Mohan Abbot Vs. State of Punjab**, reported in **(2008) 4 SCC 582**, **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. 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.

10. Resultantly, this application is **allowed** and the impugned **FIR**

bearing CR No.I-40 of 2018 registered with Mangrol Police Station, Dist.-Surat (Rural) and all other proceedings arising out of the aforesaid FIR are also quashed and set aside qua the applicant. Rule is made absolute.

11. Registry is directed to send writ of this order to the concerned authority/trial Court forthwith by fax or email.

(R.P.DHOLARIA, J)

CHANDRESH/manoj