IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO. 14337 of 2020

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NAGINBHAI KEVALBHAI VALAND

Versus

STATE OF GUJARAT

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Appearance:
MR RAJKUMAR CHAUMAL(3501) for the Applicant(s) No. 1,10,2,3,4,5,6,7,8,9
RONAK R CHAUMAL(9561) for the Applicant(s) No. 1,10,2,3,4,5,6,7,8,9
BIREN J PANCHAL(9300) for the Respondent(s) No. 3
MR ANKIT K MEHTA(10393) for the Respondent(s) No. 3
NOTICE SERVED(4) for the Respondent(s) No. 2
MR PRANAV TRIVEDI, ADDL. PUBLIC PROSECUTOR(2) for the Respondent(s) No. 1

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CORAM: **HONOURABLE MS. JUSTICE GITA GOPI**

Date : 21/12/2020

ORAL ORDER

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

2. This petition has been filed under section 482 of the Code of Criminal Procedure for quashing and setting aside the first information report bearing FIR No.11216006200540 of 2020 registered with Chiloda Police Station, Gandhinagar for offfences punishable under sections 365, 323, 427, 143, 147, 148 and 149 of IPC and section 135 of the Gujarat Police Act and the proceedings initiated pursuant thereto.

3. Learned advocate for the applicants submitted that the parties have settled the dispute amicably outside the Court and

that there remains no grievance between them. It was submitted that the parties are known to each other as the complainant is the son-in-law and the applicants are his in-laws. Therefore, in the larger interest of the society, the impugned complaint may be quashed and set aside.

3.1 Learned advocate submitted that the Court may verify the said aspect from the original complainant, respondent no.2.

4. Mr. Biren Panchal, learned advocate for respondent no.2, original complainant, concurred with the factum of settlement of dispute, as advanced by the learned advocate for the applicants.

5. The virtual Court verified the contents of the compromise with the original complainant. The respondent no.2, original complainant, affirmed about the execution of the Affidavit wherein the terms of settlement have been recorded. The respondent no.2, original complainant, categorically stated that he has no grievance against the applicants and that he has no objection to the quashment of the impugned first information report filed by him.

6. Mr. Pranav Triveedi, learned Public Prosecutor, submitted that any first information report should be quashed in accordance with the guidelines of the Apex Court and the parameters laid down therein.

7. This Court has heard the learned advocates on both the sides and has perused the material on record. In the Affidavit filed by respondent no.2, original complainant, it has been categorically averred that the dispute with the applicants has

been amicably resolved with the help of friends and relatives and that the impugned complaint had been filed because of some misunderstanding and misconception. It is also averred that there is no ill-will between the parties and that the original complainant had not sustained any serious injury in the alleged incident.

8. It is true that the offence alleged is non-compoundable and that the other sections could be compounded with the permission of the Court. Considering the principle laid down by the Apex Court in the case of **Gian Singh v. State of Punjab and another** reported in **2012 (10) SCC 303**, the present matter would fall under the criteria laid down therein. In paragraph-61 of the said judgment, it has been observed thus:

> "61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victims family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under

special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

9. In the case of **State of Madhya Pradesh v. Laxmi Narayan and others** reported in **(2019) 5 SCC 688**, the Apex Court had the occasion to consider the issue as to whether an FIR lodged for the 2 offences punishable under sections 307 and 34 IPC could be quashed on the basis of the settlement between the parties. While considering the said issue, the Apex Court observed in para-13 thus:

"13. Considering the law on the point and the other decisions of this Court on the point, referred to

hereinabove, it is observed and held as under:

(i) that the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

(ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

(iii) similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

(iv) offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after

the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

(v) while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impart on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc."

10. In the present case, admittedly, the dispute is a private and personal affair. The injury sustained does not involve any mental depravity nor amounts to a heinous crime. The parties are members of one family. In view of the settlement arrived at between the parties, there exists no scope for any further proceeding in the matter. The continuance of proceedings would lead to wastage of precious judicial time as there would remain no possibility of any conviction in the case. Hence, the Court is of the opinion that this is a fit case where the inherent powers of the Court under section 482 of the Cr.P.C. could be exercised for securing the ends of justice.

11. In the result, the petition is allowed. The impugned first information report bearing FIR No.11216006200540 of 2020 registered with Chiloda Police Station, Gandhinagar and the proceedings initiated in pursuance thereof are quashed and set

aside. Rule is made absolute.

(GITA GOPI,J)

DIPTI PATEL