IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 1593 of 2024

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PARAKRAMSINH SAVJUBHA JADEJA

Versus

STATE OF GUJARAT

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Appearance:
MR SHIVRAJSINGH B RATHORE(10291) for the Applicant(s) No. 1
for the Respondent(s) No. 2,3
MR MANAN MEHTA, ADDL. PUBLIC PROSECUTOR for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

Date : 06/02/2024

ORAL ORDER

[1.0] Learned advocate Mr. P. N. Radia states that he has instructions to appear on behalf of the original complainant and seeks permission to file his Vakalatnama, which is granted. Heard learned advocates for the respective parties.

[2.0] **RULE**. Learned advocates waive service of note of rule on behalf of the respective respondents.

[3.0] 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.

[4.0] By way of this petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “CrPC”), the petitioner has

prayed to quash and set aside the FIR being **CR No.11993003231274 of 2023 registered with Anjar Police Station, Kachchh East-Gandhidham** for the offence punisable under Section 379 of the Indian Penal Code, 1860 and to quash all other consequential proceedings arising therefrom.

[5.0] 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 dated 12.01.2024 which is taken on record. In the Affidavit, the original complainant has categorically stated that the dispute with the petitioner 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.

[6.0] Going through the FIR it appears that the FIR is filed at the instance of respondent No.3 – original complainant wherein it is alleged that Maruti Swift Car bearing registration No.GJ-12-FC-6265 of the complainant was stolen by the present petitioner – accused. It is further alleged that son of the complainant informed the complainant that prior to four months of incident, the petitioner had taken a key and R.C. Book of the said car and therefore, the petitioner has stolen the said car with the help of another key which the petitioner was having. The offence is alleged to have happened on 03.12.2023 and FIR is filed on 06.12.2023. Learned advocate for the petitioner has submitted that dispute has arisen out of money transaction in which the

petitioner lent Rs.2 lakh to the complainant and as the complainant did not return the said amount, said car was taken away by the present petitioner but considering the averments in the FIR it appears that as the petitioner was already having the key and R.C. Book of the car, he was in symbolic possession of the car since four months prior to the occurrence of incident and now the dispute is settled between the parties and complainant has also filed an affidavit to that effect.

[7.0] It is necessary to consider whether the power conferred by the High Court under section 482 of the CrPC 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**.

[8.0] Having heard learned advocates on both the sides and considering the facts and circumstances of the case 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)** as also considering the fact that now the dispute is amicably settled, in the opinion of this Court, further continuation of criminal proceedings against the present petitioner in relation to the impugned FIR would cause unnecessary harassment to the petitioner. Further, even the complainant has affirmed the fact of settlement and filing of affidavit by him. 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..

[9.0] In the result, petition is allowed. The impugned FIR being **CR No.11993003231274 of 2023 registered with Anjar Police Station, Kachchh East-Gandhidham** as well as all consequential proceedings initiated in pursuance thereof are hereby quashed

and set aside *qua* the petitioner herein. If the petitioner is in jail, the jail authority concerned is directed to release the petitioner forthwith, if not required in connection with any other case. Rule is made absolute to the aforesaid extent only. Direct service is permitted.

(HASMUKH D. SUTHAR, J.)

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