IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 12031 of 2023

==========

PRADIPBHAI RAMSINH PADHIAR(disposed of as withdrwan) &
ORS.PRADIPBHAI RAMSINH PADHIAR(disposed of as withdrwan)
Versus
STATE OF GUJARATSTATE OF GUJARAT & ANR.

==========

Appearance:
MS JAYSHREE ACHARYA(5160) for the Applicant(s) No. 2,3
MS BHAVNA D ACHARYA(6406) for the Applicant(s) No. 2,3
PETITION/APPEAL WITHDRAWN/DISMISSED for the Applicant(s) No. 1
MR VIRAJ B KHATANA(10416) for the Respondent(s) No. 2
MR HARDIK SONI, ADDL. PUBLIC PROSECUTOR for the Respondent(s) No. 1

==========

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

Date : 16/02/2024
ORAL ORDER

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

[2.0] 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.

[3.0] 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 petitioners have prayed to quash and set aside the FIR being **CR No.11197003230786 of 2023 registered with Vadu Police Station, Vadodara Rural** for the offences punisable under Sections 323, 114, 294(b) and 498-A of the Indian Penal Code,

1860 and under Sections 3 and 7 of the Dowry Prohibition Act and to quash all other consequential proceedings arising therefrom.

[4.0] 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 16.02.2024 which is taken on record. In the Affidavit, the original complainant has categorically stated that the dispute with the petitioners has been resolved amicably and that she has no objection, if the present proceedings are quashed and set aside since there is no surviving grievance between them.

[5.0] 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**.

[6.0] 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 impugned FIR is filed in connection with matrimonial dispute between the parties which has been now settled and therefore, now as the dispute is amicably settled and respondent No.2 has taken mutual divorce from her husband (original accused No.1) and they have separated and decided to live their own way, in the opinion of this Court, the further continuation of criminal proceedings against the present petitioners, who are father in law and brother in law respectively, in relation to the impugned FIR would cause unnecessary harassment to the petitioners. Further, even the complainant has affirmed the fact of settlement and filing of affidavit by her. 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.. At this stage it is apposite to refer to the decision of Hon'ble Supreme Court in the case of **Abhishek vs. State of Madhya Pradesh** reported in **2023 INSC 779** as well as in the case of **Preeti Gupta and Another vs. State of Jharkhand and Another** reported in **(2010)7 SCC 667.** Further, the Hon'ble Supreme Court in the case of **State of Haryana vs. Bhajan Lal** reported in **(1992) Supp (1) SCC 335** wherein it has been observed and held as under:

> *"(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;*
>
> *(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;*
>
> (7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

[7.0] In the result, petition is allowed. The impugned FIR being **CR No.11197003230786 of 2023 registered with Vadu Police**

Station, Vadodara Rural as well as all consequential proceedings initiated in pursuance thereof are hereby **quashed and set aside *qua* the petitioner Nos.2 and 3 herein**. If the petitioners are in jail, the jail authority concerned is directed to release the petitioners 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.)

Ajay