IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE FIR/ORDER) NO. 20381 of 2017

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SUNIL KESHAVLAL PATEL & ORS.

Versus

STATE OF GUJARAT & ANR.

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Appearance:
DELETED for the Applicant(s) No. 1
MR KIRANKUMAR R DAVE(2847) for the Applicant(s) No. 2,3
MR PM DAVE(263) for the Applicant(s) No. 2,3
MR DHAWAN M JAYSWAL, APP for the Respondent(s) No. 1
RULE SERVED BY DS for the Respondent(s) No. 2
MR DHAIRYAVAN BHATT for the Respondent No.2
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CORAM:**HONOURABLE MR. JUSTICE DIVYESH A. JOSHI**

Date : 25/04/2024

ORAL ORDER

1. By this application under Section 482 of the Code of Criminal Procedure, 1973, the applicants-original accused persons seek to invoke the inherent powers of this Court praying for quashing of the proceedings of the Criminal Case No.1176 of 2012 pending before the Court of the learned Metropolitan Magistrate, Ahmedabad arising from the FIR being C.R. No.I-348 of 2012 registered with Naranpura Police Station, Ahmedabad, for the offence punishable under Sections- 498A, 323, 504, and 114 of the Indian Penal Code and Sections-3 & 7 of the Dowry Prohibition Act.

2. Heard learned advocate, Mr. Kirankumar Dave for the applicant nos.2 and 3, learned APP Mr. Dhawan Jayswal for

respondent no.1 and learned advocate, Mr. D.D. Bhatt for respondent no.2.

3. Learned advocate appearing for the applicants submits that the FIR is filed against the three accused persons by the complainant and as soon as the applicants have come to know about the registration of the FIR, they have approached this Court by way of present application and on 21.09.2017, a co-ordinate bench of this court has passed the following order:-

> "Mr. Dave, learned advocate appearing for the applicants, states that the criminal case is not further proceeded, though the charge sheet is filed in the year 2012.
>
> Mr. Dave, learned advocate appearing for the applicants, does not press this application qua the applicant No. 1, who is husband of the complainant. The present application stands disposed of qua applicant No.1.
>
> As far as the applicant Nos. 2 and 3 are concerned, who are father in-law and mother in-law of the complainant, I have considered the allegations against them.
>
> Rule returnable on 28.11.2017. Learned Public Prosecutor waives service of notice of Rule on behalf of respondent - State.
>
> As far as the applicant Nos. 2 and 3 are concerned, is-interim in terms of Para – 10(C).
>
> Affidavit of service shall be filed on or before 10.11.2017.
>
> Direct service to respondent No.2 through concerned Police Station is permitted."

4. Learned advocate further submits that the application

qua the applicant no.1 has not been pressed and the applicant nos.2 and 3 were protected by this Hon'ble Court and the chargesheet is not filed against the present applicants-accused. Learned advocate further submitted that during the pendency of the present proceedings, the matter is settled between the parties outside of the Court. Learned advocate further submits that the respondent no.2 – original complainant is personally remained present before this Court and she has filed an affidavit in support of the application specifically stating that if the proceedings qua present applicants-accused nos.2 and 3 are quashed and set aside, in that event, she has no objection. It is, therefore, urged that the present applications may be allowed.

5. Learned advocate Mr. Dhairyavan Bhatt appearing for the respondent no.2 – original complainant has submitted that infact, the matter is settled between the parties outside of the Court and an affidavit in that regard is already filed by the complainant. Learned advocate has identified the signature of the complainant as well as identified the respondent no.2, who is present before this Court and also confirmed correctness and genuineness of the affidavit filed by her.

6. Learned APP has submitted that appropriate order may be passed on the strength of the settlement arrived at between the parties.

7. Therefore, since now, the dispute with reference to the impugned FIR is settled and resolved by and between parties,

which is confirmed by the original complainant through her learned advocate, the trial would be futile and any further continuation of proceedings would amount to abuse of process of law. Therefore, the impugned FIR is required to be quashed and set aside. The affidavit filed by the respondent no.2-original complainant is ordered to be taken on record.

8. Resultantly, the present application is allowed. The proceedings of the Criminal Case No.1176 of 2012 pending before the Court of the learned Metropolitan Magistrate, Ahmedabad arising from the FIR being C.R. No.I-348 of 2012 registered with Naranpura Police Station, Ahmedabad and all other consequential proceedings arising out of said FIR are hereby quashed and set aside qua the applicant nos.2 and 3.

The Registry shall accept the vakalatnama of Mr. D.D. Bhatt, the learned advocate who appeared on behalf of the respondent no.2-original complainant.

Rule is made absolute to the aforesaid extent. Direct service is permitted.

(DIVYESH A. JOSHI,J)

A. B. VAGHELA