

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 20106 of 2023**

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TUSHAR LAKHESHCHANDRA MESHRAM & ORS.TUSHAR
LAKHESHCHANDRA MESHRAM

Versus

STATE OF GUJARATSTATE OF GUJARAT & ANR.

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Appearance:

MS AKANKSHA U TIWARI(11499) for the Applicant(s) No. 1,2,3,4

PARTH Y RAVAL(9535) for the Applicant(s) No. 1,2,3,4

for the Respondent(s) No. 2

MS VRUNDA SHAH, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 20/02/2024

ORAL ORDER

1. Learned advocate Mr. Bhash h. Mankad states that he has instructions to appear on behalf of the original complainant and thereby, seeks permission to file his Vakalatnama, which is granted. Heard learned advocates for the respective parties.

2. Heard learned advocates for the respective parties.

3. **RULE.** Learned advocates waive service of notice of rule on behalf of the respective respondents.

4. 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.

5. By way of this application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “Cr.P.C.”), the applicants have prayed to quash and set aside the complaint being FIR **C.R. No.11191047210074 of 2021 registered with Mahila Police Station, Ahmedabad** for the offences under Sections 498(A), 294(B) 323 and 114 of Indian Penal Code, 1860 and all the consequential proceedings arising therefrom.

6. 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, which is taken on record. In the Affidavit, the original complainant has categorically stated that the dispute with the applicant 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.

7. Having heard learned advocates for the respective parties and considered the material available on record, in the complaint, husband of the respondent No.2 along with his family members have mentally and physically harassed the complainant. It appears that petitioners are facing charge of Section 498A of IPC. Therefore, as per the allegations made in the complaint, ingredient of Section 498A is made out. In this regard, it would be apposite to refer the decisions of the Apex Court in case of **Abhishek vs. State of Madhya Pradesh** reported in **2023INSC779 / (Criminal Appeal No. 1457 of 2015)** and in

case of **Preeti Gupta and another vs. State of Jharkhand and another [(2010) 7 SCC 667]**, it is observed that “this Court noted that the tendency to implicate the husband and all his immediate relations is also not uncommon in complaints filed under Section 498A IPC. It was observed that the Courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases, as allegations of harassment by husband’s close relations, who were living in different cities and never visited or rarely visited the place where the complainant resided, would add an entirely different complexion and such allegations would have to be scrutinised with great care and circumspection”.

8. In view of 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)**, in the opinion of this Court, the further continuation of criminal proceedings against the applicant/s in relation to the impugned FIR would cause unnecessary harassment to the applicant/s. 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. In the aforesaid backdrop, complaint is filed. It is necessary to consider whether the power conferred by the High Court under section 482 of the Code of Criminal Procedure 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.

10. In the result, the application is allowed. The impugned complaint being **C.R. No.11191047210074 of 2021 registered with Mahila Police Station, Ahmedabad** as well as all consequential proceedings initiated in pursuance thereof are hereby quashed and set aside qua the applicants herein. Rule is

made absolute. Direct service is permitted. If the applicants are in jail, the jail authority concerned is directed to release the applicants forthwith, if not required in connection with any other case.

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(HASMUKH D. SUTHAR,J)