

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 10122 of 2019
With
R/SPECIAL CRIMINAL APPLICATION NO. 10423 of 2019

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ZOEB ISMAILBHAI MANSURI
Versus
STATE OF GUJARAT

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Appearance:

A R KADRI(7330) for the Applicant(s) No. 1
MR ASHRAF R GHOGHARI(10613) for the Respondent(s) No. 2
MR MM SAIYED(1806) for the Respondent(s) No. 2
MR HARDIK SONI, APP for the Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE CHEEKATI
MANAVENDRANATH ROY

Date : 25/01/2024
ORAL ORDER

1. Heard learned counsel for the petitioner, learned Assistant Public Prosecutor for the respondent-State and learned counsel for respondent no.2.

2. The petitioners are the accused in Crime Register No.II-3208 of 2019 registered with Shahpur Police Station, Ahmedabad. On an FIR being lodged by the second respondent against them, the aforesaid crime was registered against the petitioners for the offences punishable under Sections 323, 294-B, 506 (1) and 114 of the Indian Penal Code. The said crime was investigated and eventually the investigation officer has filed charge-sheet against the petitioners in the trial Court. The said case is now pending for trial on the file of learned Additional Metropolitan Magistrate, Court No.25, Ahmedabad being Criminal Case No.46136 of 2020.

3. The petitioners sought quash of the said criminal proceedings initiated against them on various grounds that are urged in the petition. While present petition is pending hearing and while trial of the said criminal case is pending, it is stated that both the parties have entered into compromise at the instance of the elders and that they have squared up the dispute between them. Therefore, they have filed an affidavit to terminate the proceedings of the above criminal case that is pending against them in view of the compromise entered into between both the parties.

4. Although offence under Section 506 (1) is compoundable offence, offence under Section 294-B is non-compoundable offence. Therefore, the parties have approached this Court seeking permission to compound said offences.

5. Now, it is well settled law that in appropriate cases where offences are non-compoundable offences, the parties can invoke inherent powers of this Court under Section 482 of Criminal Procedure Code to seek permission to compound said offence. The three Judge Bench of the Apex Court in the case **Gian Singh Vs. State of Punjab & Another**, reported in **(2012) 10 SCC 303**, held that power of the Court in quashing criminal complaint in exercise of inherent powers is distinct and different from the power of a Criminal Court of compounding offences under Section 320. It is held that cases where the parties have settled the dispute power to quash criminal proceedings is to be exercised depending on facts of each case and the Court must have due regard to nature and

gravity of the crime and its impact on society, while quashing the said criminal proceedings in exercise of its inherent powers.

6. The Supreme Court has enumerated certain exceptional cases like murder, rape, dacoity, offences under Prevention of Corruption Act etc. and held that in such cases, inherent power of the Court cannot be exercised to quash the proceedings even in case where the parties have settled their dispute. Thus, from the law enunciated by the Apex Court in the above reported judgment, except in aforesaid cases like murder, dacoity, rape and cases arising out of Anti-Corruption Laws, in other cases, the High Court can exercise its inherent powers under Section 482 of Criminal Procedure Code in deserving and appropriate cases to quash criminal proceedings, even in cases relating to offences which are not compoundable.

7. The present case on hand is not falling within the purview of the said exempted cases. Therefore, in the considered view of this Court, present request of the petitioners and second respondent to quash the proceedings in view of the settlement arrived at between the parties amicably can be entertained.

8. Both the petitioners, who are accused in the said criminal case, and *defacto* complainant-second respondent along with their respective counsel are present before the Court. When questioned, both the petitioners and second respondent categorically stated that they have entered into compromise and settled their disputes amicably at the instance of the

elders and they have squared up all the disputes. They also prayed to quash present criminal proceedings against the petitioners. They are also identified by their respective counsel and the Police Constable of the concerned Police Station, who is present before the Court.

9. Therefore, both the petitioners and second respondent are permitted to compound the offence. The compromise is recorded. In view of the fact that they have compounded the offences, this petition is allowed quashing the proceedings of Criminal Case No.46136 of 2020 on the file of learned Additional Metropolitan Magistrate, Court No.25, Ahmedabad, arising out of C.R.No.II-3208 of 2019 of Shahpur Police Station, Ahmedabad, so far as present petitioners are concerned.

(CHEEKATI MANAVENDRANATH ROY, J)

R.S. MALEK