

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
CRIMINAL MISC.APPLICATION No. 10014 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
- 2 To be referred to the Reporter or not ?
- 3 Whether their Lordships wish to see the fair copy of the judgment ?
- 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
- 5 Whether it is to be circulated to the Civil Judge?

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CHIRAG JAYESHKUMAR RAVAL - Applicant(s)

Versus

STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MR. BA PATEL for Applicant(s) : 1,
MR M.R.MENGDEY, ADDL. PUBLIC PROSECUTOR for Respondent(s) : 1,
None for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 31/08/2007

ORAL JUDGMENT

1. By way of this application under Section 482 of the Criminal Procedure Code, the applicant - original accused has prayed for an appropriate order

quashing and setting aside the complaint/FIR being C.R.No. I- 135 of 2007 registered with 'D' Division Police Station, Bhavnagar for the offences punishable under Sections 323, 324, 504, 506(2) of the Indian Penal Code and under Section 135 of the Bombay Police Act.

2. It is the contention on behalf of the petitioner that as the complaint against his friend for the offences punishable under Sections 363 and 366 of the Indian Penal Code being CR.I.No. 112 of 2007 has been set aside by this Court by judgment and order dated 03.08.2007, present complaint/ FIR be also be quashed and set aside. It is also further submitted by the learned Advocate appearing on behalf of the petitioner that looking to the injuries, same are minor injuries and no serious injuries are caused to the complainant, therefore, impugned complaint is required to be quashed and set aside.

3. On the other hand Mr.M.R.Mengdey, learned Additional Public Prosecutor while opposing the present application has submitted that the facts of the present case and complaint/FIR being CR.No.I- 135

of 2007 cannot be compared with the facts of the complaint/FIR being C.R.No.I-112 of 2007. It is submitted that as the dispute in the complaint/FIR being CR.No.I- 112 of 2007 was matrimonial dispute, parties have settled the dispute and staying happily and even the original complainant of complaint/FIR being CR.No.I-112 of 2007 was satisfied, therefore, the said complaint was set aside considering the averments and allegation in that complaint.

4. Heard the learned Advocates appearing on behalf of the respective parties.

5. The main contention and submission on behalf of the applicant is that as the complaint/FIR being C.R.No.I-112 of 2007 filed against the friend of the petitioner has been quashed and set aside by this Court, present complaint/FIR being C.R.No.I-135 of 2007 is also required to be quashed and set aside. It is required to be noted that so far as the facts in the complaint/FIR being CR.No.I -112 of 2007 is with regard to matrimonial dispute; and was filed by the Mother and Grandfather; that as they were satisfied that their daughter has married with the friend of

the petitioner; and they were staying happily, it was requested to exercise powers under Section 482 of the Criminal Procedure Code and considering the same this Court quashed the said complaint.

6. So far as the facts, averments and allegations in the impugned complaint/FIR being C.R.No.I-135 of 2007 is concerned, admittedly the petitioner has gone to the place of the complainant, threaten the complainant's family members to withdraw the complaint and has also beaten them. Considering the averments and allegations in the complaint/FIR, it *prima-facie* discloses cognizable offences more particularly punishable under Sections 323, 324, 504, 506(2) of the Indian Penal Code and under Section 135 of the Bombay Police Act.

7. Considering above, no case is made out to quash the impugned complaint/FIR in exercise of powers under Section 482 of the Criminal Procedure Code. It cannot be said that impugned complaint/FIR is so vexatious and abuse of process of Court, same requires to be quashed and set aside. On the contrary even in the present application itself the petitioner

has admitted that he has gone to the place of complainant with a intention to persuade the complaint. Therefore, it is not disputed that the petitioner has not visited the house of original complainant. However, what is required to be considered is under the guise of persuading the complaint the petitioner gave threats to the original complainant to withdraw the complaint, and has no right to beat the original complainant and his family members. Under the circumstances present petition is required to be dismissed and accordingly it is dismissed.

[M.R.Shah, J.]

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