

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 2920 of 2014****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE R.M.CHHAYA**

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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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DILIPSINH HARISINH PADHIYAR....Applicant(s)

Versus

STATE OF GUJARAT & 1....Respondent(s)

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Appearance:

MR P P MAJMUDAR, ADVOCATE for the Applicant(s) No. 1

MS HANSA PUNANI, APP for the Respondent(s) No. 1

MS SHIVANGI RANA, ADVOCATE for respondent No.2-First Informant

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**CORAM: HONOURABLE MR.JUSTICE R.M.CHHAYA**

**Date : 31/07/2014**

**ORAL JUDGMENT**

1. Heard learned counsel for the respective parties.
2. **Rule.** Ms.Hansa Punani, learned Additional Public Prosecutor waives service of Rule on behalf of the respondent-State and Ms.Rana, learned counsel waives service of Rule on

behalf of respondent No.2-first informant. Ms.Rana, learned counsel shall file her Vakalatnama on behalf of respondent No.2-First Informant during the course of the day.

3. Considering the issue involved in the application and with consent of learned counsel appearing for the parties, this application is taken up for final disposal forthwith.

4. By way of this application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "the Code"), the applicant has prayed for quashing and setting aside FIR bearing C.R.No.I-26 of 2014 registered with Sinor Police Station, Dist: Vadodara, for the offences punishable under Sections 498(A) and 306 of the Indian Penal Code.

5. Learned counsel for the applicant has submitted that the applicant and respondent No.2-first informant have settled the dispute and therefore, any further continuance of the proceedings pursuant to the impugned FIR would create hardship to the parties and on the contrary, would be detrimental to the relations between the applicant and respondent No.2. It was further submitted that in view of the fact that the dispute is resolved, the trial would be futile and any further continuance of the proceedings would amount to abuse of process of law. Therefore, this Court may exercise its inherent powers conferred under Section 482 of the Code and allow the present application as prayed for.

6. Learned Additional Public Prosecutor for respondent No.1-State, has candidly submitted that in view of the fact that the parties have amicably resolved the dispute which was more of a personal nature, this Court may pass appropriate orders.

7. Learned counsel for respondent No.2-first informant has tendered an affidavit dated 17.07.2014 filed by respondent No.2, who is personally present in the Court and is identified by learned counsel for respondent No.2. Upon further enquiry, Mr.Chhatrasinh Himmatsinh Rana- first informant has categorically stated before this Court that he has settled the dispute with the applicant and now no dispute remains. Therefore, present application deserves to be allowed as prayed for.

8. Learned counsel for respondent No.2 has produced a photocopy of the PAN card in order to establish the identity of respondent No.2. It may also further be noted that the parties have also placed on record a copy of MOU dated 12.07.2014, which is also taken on record. It is further provided that the parties shall adhere to the terms of the MOU, which is executed between the parties and produced before the Court. Learned counsel for the applicant assures this Court the welfare of the child which is reflected in the MOU shall be adhered to by the applicant.

9. Having heard the learned counsel appearing for the respective parties, considering the facts and circumstances arising out of the present application as well as taking into consideration the decisions rendered in the cases of *Gian Singh Vs. State of Punjab & Anr.*, reported in (2012) 10 SCC 303, *Narinder Singh and Ors. Vs. State of Punjab & Anr.*, reported in 2014(6) SCC 466, *Madan Mohan Abbot Vs. State of Punjab*, reported in (2008) 4 SCC 582, *Nikhil Merchant Vs. Central Bureau of Investigation & Anr.*, reported in 2009 (1) GLH 31, *Manoj Sharma Vs. State & Ors.*, reported in 2009 (1) GLH 190 and *Dimpey Gujral Vs. Union*

*Territory, reported in AIR 2013 SC 518*, it appears that further continuation of criminal proceedings in relation to the impugned FIR against the applicant would be unnecessary harassment to the applicant. It appears that the trial would be futile and further continuance of the proceedings pursuant to the impugned FIR would amount to abuse of process of law and Court and hence, to secure the ends of justice, the impugned FIR is required to be quashed and set aside in exercise of powers conferred under Section 482 of the Code.

10. Resultantly, present application is **allowed**. Impugned FIR bearing C.R.No.I-26 of 2014 registered with Sinor Police Station, Dist: Vadodara, filed against the present applicant is hereby quashed and set aside. Consequently, any other proceedings, if any, arising out of the aforesaid FIR, are also quashed and set aside. It is however, clarified that this judgment would apply only to the present applicant. Accordingly, Rule is made absolute. Direct Service is permitted.

**(R.M.CHHAYA, J.)**

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