

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION (FOR QUASHING &
SET ASIDE FIR/ORDER) NO. 157 of 2014

For Approval and Signature:

HONOURABLE MR.JUSTICE R.M.CHHAYA Sd/-

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	NO
2	To be referred to the Reporter or not ?	NO
3	Whether their Lordships wish to see the fair copy of the judgment ?	NO
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 ?	NO
5	Whether it is to be circulated to the civil judge ?	NO

JAYESHBHAI VANMALIDAS DUDHREJIYA &
3....Applicant(s)
Versus

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

Appearance:

MR HARSHAD K PATEL, ADVOCATE for Applicant Nos.1-4

MR LR POOJARI, APP for the Respondent(s) No. 1

MR DEEP D VYAS, ADVOCATE for Respondent(s) No. 2

CORAM: HONOURABLE MR.JUSTICE R.M.CHHAYA

Date : 30/06/2014

ORAL JUDGMENT

(1) Heard learned counsel for the parties.

(2) **RULE.** Learned counsel for the respondents appear and waive service of rule on behalf of the respective respondents. With consent of the parties the matter is taken up for final disposal forthwith.

- (3) By way of the present application under Section 482 of the Code of Criminal Procedure, 1973 (the Code) the applicants have prayed for quashing of F.I.R. being C.R. No.II-81 of 2013 registered at Mahila Police Station, Dist. Junagadh for the offences under Sections 498A, 323, 504, 506(2) and 114 of the Indian Penal Code, 1860 (the IPC) as well as all consequential proceedings arising out of the impugned F.I.R.
- (4) Learned counsel for the applicants has taken this Court through the factual matrix arising out of the present application. It is submitted that applicant No.1 and respondent No.2-first informant married as per Hindu rites and rituals on 12.12.2009 and out of their marriage they have one son "Mantra", who is aged about three years. It is submitted that thereafter because of dispute between husband-wife, respondent No.2 left applicant No.1 and started residing at her parental home in the year 2011. It is submitted that ultimately the parties have decided to get divorce and have also executed divorce deed on 01.05.2013 wherein it was clearly mentioned that respondent No.2 shall not raise any claim regarding her maintenance or alimony in future and she shall not file

any complaint/proceedings arising out of the matrimonial dispute. It is submitted that the divorce deed also records that the applicants had returned all the *streedhan* to respondent No.2. That father of respondent No.2 has signed as witness in the divorce deed. It is submitted that thereafter with a view to harass and pressurize the applicants, respondent No.2 lodged the impugned F.I.R. on 24.11.2013 against the present applicants for the incident alleged to have happened during 2009 till 24.11.2013. It is submitted that after filing of the aforesaid F.I.R. the parties have entered into an amicable settlement and the dispute is now sorted out between the parties and now respondent No.2 has no grievance against the applicants and therefore it is submitted that this Court can exercise its inherent powers under Section 482 of the Code.

Reliance is placed upon the affidavit filed by respondent No.2 dated 25.06.2014 wherein it is, inter alia, mentioned by respondent No.2 that after lodging the F.I.R. she has entered into compromise with the applicants and it is categorically stated that she had filed the F.I.R. in haste but now she has no grievance against the applicants. It is also

mentioned in the affidavit that pursuant to the compromise deed she has received all her streedhan and other articles and the grievances are redressed and she does not want to continue the present criminal proceedings against the applicants.

(5) Learned counsel for the applicants has further submitted that any further continuation of the proceedings pursuant to the impugned F.I.R. shall amount to harassment to the applicants and in view of the settlement arrived at between the parties trial would be futile and the same would also amount to abuse of process of law and court and therefore it is submitted that in order to secure the ends of justice, this Court may quash the impugned F.I.R. as well as all consequential proceedings arising out of the impugned F.I.R.

(6) Learned advocate for respondent No.2-first informant reiterates the contentions raised by learned counsel for the applicants. It is further submitted that respondent No.2 is personally present in the court, who is identified by the learned advocate for respondent No.2.

On enquiry by this Court, respondent No.2-first informant, Diptiben D/o. Rajnikantbhai Hariyani, has declared before this Court that the parties have amicably settled the dispute and an affidavit dated 25.06.2014 to that effect is also placed on record of the present proceedings, which is taken on record, and the first informant states that she has no objection if this Court quash the impugned F.I.R.

- (7) Learned Assistant Public Prosecutor for respondent No.1-State candidly states that as the dispute between the parties is amicably resolved and as respondent No.2 does not want to prosecute the criminal proceedings against the applicants, this Court may pass appropriate orders.
- (8) Having heard the learned advocates appearing on behalf of the respective parties, considering the facts and circumstances arising out of the present application as well as considering the decisions rendered in the cases of Dimpey Gujral & Ors. Vs. Union Territory, Through Administrator, U.T.Chandigarh and Ors., AIR 2013 SC 518, Gian Singh Vs. State of Punjab & Anr., (2012) 10 S.C.C. 303, Madan Mohan Abbot Vs. State of Punjab, 2008(4) S.C.C. 582, Nikhil Merchant

V/s. Central Bureau of Investigation & Anr.,
2009(1) GLH 31, Manoj Sharma Vs. State &
Ors., 2009(1) GLH 190 as well as Narinder
Singh & Ors. Vs. State of Panjab & Anr.,
2014(2) Crimes 67 (SC), it appears that
further continuation of criminal proceedings
in relation to the impugned F.I.R. against
the applicants-original accused would be
unnecessary harassment to the applicants and
the trial would be futile and would also
amount to abuse of process of law and court
and hence, to secure the ends of justice, the
impugned F.I.R. is required to be quashed in
exercise of power under Section 482 of the
Code.

- (9) For the reasons stated hereinabove, the
present application is allowed. Impugned
F.I.R. being C.R. No.II-81 of 2013 registered
at Mahila Police Station, Dist. Junagadh as
well as all other consequential proceedings
arising out of the aforesaid F.I.R are hereby
quashed and set aside. Rule is made absolute
to the aforesaid extent. Direct service
permitted.

Sd/-
[R.M.CHHAYA, J]

*Bhavesh [pps]**