

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION (FOR QUASHING &  
SET ASIDE FIR/ORDER) NO. 9415 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

ALEKESH MANYABHAI DAMOR & 3....Applicant(s)

Versus

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

Appearance:

MR VIJAY H NANGESH, ADVOCATE for Applicant Nos.1-4

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

MR HEMANT K MAKWANA, ADVOCATE for Respondent 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-26 of 2014 registered at Mahila Police Station, Bhavnagar, for the offences under Sections 498A, 323, 504, 114 of the Indian Penal Code, 1860 (the IPC) as well as Sections 3 and 7 of the Dowry Prohibition Act, 1961.
- (4) In view of the fact that applicant No.1 is husband of respondent No.2-first informant and considering the fact that they have reunited as husband-wife, it is not necessary to set out the allegations leveled in the impugned F.I.R.
- (5) Learned Counsel for the applicants has taken this Court through the factual matrix arising out of the present application. At the outset learned advocate for the applicants has submitted that the dispute between the parties, which was predominantly of matrimonial dispute and the same is after intervention of the relatives and the family members of both sides, has been amicably settled and both,

applicant No.1 and respondent No.2, are residing together as husband-wife, considering the ratio laid down by the Apex Court in the case of Dimpey Gujral & Ors. Vs. Union Territory, Through Administrator, U.T.Chandigarh and Ors., AIR 2013 SC 518, this Court can exercise its inherent powers under Section 482 of the Code as the offences alleged are of personal in nature.

Reliance is placed upon the affidavit filed by respondent No.2 dated 23.06.2014 wherein it is, inter alia, averred by respondent No.2 that unfortunate incident occurred due to some misunderstanding between applicant No.1 and respondent No.2 and the dispute between the parties has been amicably settled and respondent No.2 does not have any grievance against the original accused. It is therefore stated by respondent No.2 that she has no objection if the present F.I.R. is quashed.

- (1) 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 exercise its inherent jurisdiction under Section 482 of the Code and quash the impugned F.I.R. as well as all consequential proceedings arising out of the impugned F.I.R.

- (2) 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, Induben Galabhai Pargi, has declared before this Court that the parties have amicably settled the dispute, which was of personal in nature, and she is residing with applicant No.1 as his wife. An affidavit to that effect is already there on record of the present proceedings along with a copy of the election card of

the first informant and the first informant further states that she has no objection if this Court quash the impugned F.I.R.

- (1) Learned Assistant Public Prosecutor for respondent No.1-State candidly states that the dispute between the parties, which was predominantly matrimonial dispute between husband-wife, has amicably resolved and as the parties are residing together as husband-wife and also as respondent No.2 does not want to prosecute the criminal proceedings against the applicants, this Court may pass appropriate orders.
- (2) 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 (supra), 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.

(3) For the reasons stated hereinabove, the present application is allowed. Impugned F.I.R. being C.R. No.II-26 of 2014 registered at Mahila Police Station, Bhavnagar as well as all other consequential proceedings arising out of the aforesaid F.I.R are hereby quashed and set aside.

(4) Rule is made absolute to the aforesaid extent. Direct service permitted.

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

\*\*\*

Bhavesh [pps]\*