

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**CRIMINAL MISC.APPLICATION (FOR QUASHING & SETTING ASIDE
FIR/ORDER) NO. 12376 of 2015****FOR APPROVAL AND SIGNATURE:****HONOURABLE SMT. JUSTICE ABHILASHA KUMARI**

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 or any order made thereunder ?	

MAHESHBHAI BIRPALSINGH SHARMA & 3....Applicant(s)

Versus

STATE OF GUJARAT & 2....Respondent(s)

Appearance:

MR SAMIR AFZAL KHAN, ADVOCATE for the Applicant(s) No. 1 - 4

MR LB DABHI, ADDL. PUBLIC PROSECUTOR for Respondent(s) No. 1 & 3

MR VB MALIK, ADVOCATE for Respondent No.2

CORAM: HONOURABLE SMT. JUSTICE ABHILASHA KUMARI

Date : 30/06/2015

ORAL JUDGMENT

1. Rule. Mr.L.B.Dabhi, learned Additional Public Prosecutor, waives service of notice of Rule for

respondents Nos.1 and 3. It is stated by Mr.V.B.Malik, learned advocate, that he has received instructions to appear on behalf of respondent No.2 and would be filing his Vakalatnama in the Registry during the course of the day. He is permitted to do so. He waives service of notice of Rule for respondent No.2 (complainant). Considering the facts and circumstances in which the matter arises, it is being heard and decided finally, at this stage, with the consent of the learned counsel for the respective parties.

2. This application under Section 482 of the Code of Criminal Procedure, 1973 (the Code) has been preferred by the applicants with a prayer to quash and set aside the FIR being C.R.No.I-559/2013 registered before the Vatva Police Station, District: Ahmedabad, on 08.10.2013, for offences punishable under Sections 306, 498-A, 323 and 114 of the Indian Penal Code and Sections 3 and 7 of the Dowry Prohibition Act, 1961. Further prayer is made to release applicant No.1 from jail.

3. The allegations in the FIR are to the effect that the present applicants who are the husband, father-in-law, mother-in-law and sister-in-law of the deceased

have abetted her suicide. It is the case of the applicants before this Court that the matter has been resolved between them and respondent No.2- complainant (father of the deceased) as is clear from the affidavit filed by him at Annexure-B to the application. Hence, the prayers made in the application may be granted.

4. Mr.Samir Afzal Khan, learned advocate for the applicants, has submitted that in view of the settlement between the parties and as the complainant no longer wants to proceed further with the criminal prosecution against the applicants, the FIR in question may be quashed and set aside.

5. In support of his submissions, learned advocate for the applicants has placed reliance upon the judgments of the Supreme Court in the cases of **Madan Mohan Abbot v. State of Punjab** reported in (2008)4 SCC 582 and **Gian Singh v. State of Punjab And Another** reported in (2012)10 SCC 303.

6. Mr.L.B.Dabhi, learned Additional Public Prosecutor for respondents Nos.1 and 3, has objected to the prayer made by the applicants and respondent

No.2 and submits that the law may be permitted to run its own course.

7. Mr.V.B.Malik, learned advocate for respondent No.2, has reiterated the stand of the complainant, as stated in the affidavit filed by him. It is submitted that the applicants and the complainant belong to the same caste and community and with the intervention of the families of both the sides, all issues and grudges between them have been settled. It has been agreed upon and understood between the parties that the applicants would look after and take the responsibility of the minor daughter of applicant No.1 and the deceased. Looking to the better future of the grand-child of the complainant, he does not want to proceed with the matter any further, therefore, the prayers made in the application may be granted.

8. The complainant Bijendrabhai Khacherabhai Sharma (respondent No.2) is present in-person before the Court along with his wife and has reiterated the stand taken by him in the affidavit to the effect that they no longer want to proceed with the criminal proceedings against the applicants. The complainant has been identified by the learned advocate for

respondent No.2- Complainant.

9. This Court has heard learned counsel for the respective parties and perused the averments made in the application as well as the contents of the affidavit.

10. In ***Madan Mohan Abbot v. State of Punjab (supra)***, the Supreme Court has held that it is advisable that in disputes where the question involved is of a purely personal nature, the courts should ordinarily accept the terms of compromise even in criminal proceedings, since keeping the matter alive, with no possibility of a result in favour of the prosecution, is a luxury which the courts, grossly overburdened as they are, cannot afford. The time so saved can be utilised in deciding more effective and meaningful litigation.

11. This position of law has been reiterated in a more recent judgment of the Supreme Court in the case of ***Gian Singh v. State of Punjab And Another (supra)***.

12. In view of settlement between the parties and in view of the fact that as the matter has been compromised between the applicants and the complainant and in view of the better future of the minor daughter

of the deceased, this Court is of the view that interest of justice would be met, if the prayers made in the application are granted. Accordingly, the following order is passed:

The complaint, being C.R.No.I-559/2013 registered with Vatva Police Station, District: Ahmedabad, on 08.10.2013, for offences punishable under Sections 306, 498-A, 323 and 114 of the Indian Penal Code and Sections 3 and 7 of the Dowry Prohibition Act, 1961, as well as the consequential criminal proceedings, are hereby quashed and set aside.

As a consequence thereof, applicant No.1 shall be released from jail forthwith upon production of a copy of this order.

13. The application is allowed in the above terms. Rule is made absolute, accordingly.

Direct Service is permitted.

(SMT. ABHILASHA KUMARI, J.)

ARG