

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION NO. 10912 of 2021**

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MOHAMMADRIYAZ JUNAIDBHAI MUSAJIWALA
Versus
STATE OF GUJARAT

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Appearance:

VASIMRAJA A KURESHI(8609) for the Applicant(s) No. 1,2,3,4,5,6,7,8,9
for the Respondent(s) No. 2
MS.KRINA CALLA APP(2) for the Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE ILESH J. VORA

Date : 29/10/2021
ORAL ORDER

[1] Mr.Kartik Barot, learned advocate states that he has instructions to appear for and on behalf of original complainant - respondent No.2. He is permitted to file his appearance.

[2] Considering the issues involved in the present application and with consent of the learned advocates appearing for the respective parties as well as considering the fact that the dispute amongst the applicants and respondent No.2 has been resolved amicably, this application is taken up for final disposal forthwith.

[3] **Rule.** Learned Additional Public Prosecutor as well as learned advocate appearing for the Complainant waive service of Rule on behalf of the respective respondents.

[4] By way of this application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "the Code"), the applicants have prayed for quashing and

setting aside F.I.R. bearing **C.R.No.I-28 of 2019 registered with Vadi Police Station, Vadodara City** for the offence punishable under Sections 498(A), 323, 504, 506 & 114 of the Indian Penal Code and to quash all other consequential proceedings arising out of the aforesaid FIR qua the applicants.

[5] Heard learned advocates for the respective parties.

[6] Both the learned advocates would submit that during the pendency of present application, the matter is amicably settled amongst the parties and therefore, any further continuation of the proceedings pursuant to the impugned FIR would create hardship to the parties and further continuation of the proceedings would amount to abuse of process of law.

[7] Learned Additional Public Prosecutor appearing for the State has opposed the present application and submitted that considering the seriousness of the offence, the complaint in question may not be quashed and the present application may be rejected.

[8] Learned advocate for respondent No.2 has placed on record the settlement Affidavit duly sworn by the original complainant, which is at Annexure-C to the petition. The respondent No.2 has filed affidavit stating inter-alia the fact that the matter is amicably settled with the applicants. The respondent No.2 is present in person before the Court and is identified by learned advocate for respondent No.2 and also admits the contents of the Affidavit. On inquiry made by the Court, the original complainant has declared before this Court that the dispute between the applicant(s) and original complainant is resolved and therefore, now the grievance

stands redressed. It is therefore submitted that the present application may be allowed.

[9] Having heard the learned advocates for the parties and considering the facts of settlement and law laid down by the Apex Court [**Gian Singh Vs. State of Punjab & Anr., reported in (2012) 10 SCC 303, 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 Narinder Singh & Ors. Vs. State of Punjab & Anr. reported in 2014 (2) Crime 67 (SC),**] this Court is of the considered view that further continuation of the criminal proceedings in relation to the impugned FIR would nothing but unnecessary harassment to the parties and trial thereon would be futile and further continuation of the proceedings would amount to abuse of process of law. Thus, 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, this application is allowed and the impugned FIR bearing **C.R.No.I-28 of 2019 registered with Vadi Police Station, Vadodara City** filed against present applicants is hereby quashed and set aside and all other proceedings arising out of the aforesaid FIR are also quashed and set aside qua the applicants. Accordingly, Rule is made absolute. **Direct service permitted.**

(ILESH J. VORA,J)

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