

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 1976 of 2024**

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RAKESH RANCHHODBHAI BHARWAD & ORS.

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR IH SYED, SR. ADVOCATE with MR SHAAN M MUNSHAW(10825) for the Applicant(s)

No. 1,2,3,4

MR VISHRUT BHANDARI(11297) for the Respondent(s) No. 2

MS ASMITA PATEL, ADDL. PUBLIC PROSECUTOR for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 29/02/2024

ORAL ORDER

[1.0] RULE. Learned advocates waive service of note of rule on behalf of the respective respondents.

[2.0] Considering the facts and circumstances of the case and since it is jointly stated at the Bar by learned advocates on both the sides that the dispute between the parties has been resolved amicably, this matter is taken up for final disposal forthwith.

[3.0] By way of this petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "CrPC"), the petitioners have prayed to quash and set aside the FIR being **CR No.11191035221060 of 2022 registered with Naroda Police Station, Ahmedabad City** for the offences punishable under Sections 323, 325, 452, 294(b), 506(2) and 114 of the Indian Penal Code, 1860; under Section 135(1) of the Gujarat Police Act and

under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short "Atrocity Act") and to quash all other consequential proceedings arising therefrom.

[4.0] Learned advocates for the respective parties submitted that during the pendency of proceedings, the parties have settled the dispute amicably and pursuant to such mutual settlement, the original complainant has also filed an Affidavit dated 12.01.2024 which is produced with the petition at Annexure-C. In the Affidavit, the original complainant has categorically stated that the dispute with the petitioners has been resolved amicably and that he has no objection, if the present proceedings are quashed and set aside since there is no surviving grievance between them.

[5.0] Going through the record it appears that the impugned FIR was initially filed by the respondent No.2 for the offences under Sections 325 and 452 of the IPC came to be added vide section addition report dated 17.10.2022. It is alleged in the FIR that the accused persons trespassed in the hotel of the complainant and quarreled with the complainant and during the scuffle witness Mukeshsinh was assaulted with wooden log by the accused persons and accused No.4 – petitioner No.4 herein hurled abuses with reference to the caste of the complainant and in this regard charge-sheet came to be filed.

[6.0] It is necessary to consider whether the power conferred by

the High Court under section 482 of the CrPC is warranted. It is true that the powers under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. The Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a *prima facie* decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage as the Hon'ble Supreme Court has decided in the case of **Central Bureau of Investigation vs. Ravi Shankar Srivastava, IAS & Anr.**, reported in **AIR 2006 SC 2872**.

[7.0] Having heard learned advocates on both the sides and considering the facts and circumstances of the case as also the principle laid down by the Apex Court in the cases of **(i) Gian Singh Vs. State of Punjab & Anr.**, reported in **(2012) 10 SCC 303**, **(ii) Madan Mohan Abbot Vs. State of Punjab**, reported in **(2008) 4 SCC 582**, **(iii) Nikhil Merchant Vs. Central Bureau of Investigation & Anr.**, reported in **2009 (1) GLH 31**, **(iv) Manoj Sharma Vs. State & Ors.**, reported in **2009 (1) GLH 190** and **(v)**

Narinder Singh & Ors. Vs. State of Punjab & Anr. reported in **2014 (2) Crime 67 (SC)** as also considering the fact that impugned FIR is filed in connection with a scuffle that took place between the complainant and the accused persons and in which one witness viz. Mukeshsinh was assaulted and castiest slur was administered by the accused No.4 against the caste of complainant but now the dispute having been settled and the complainant has appeared in person before this Court and affirmed the factum of settlement affidavit having been filed by him, in the opinion of this Court, the further continuation of criminal proceedings against the present petitioners in relation to the impugned FIR would cause unnecessary harassment to the petitioners. Further, even there is no bar to exercise power under Section 482 of the CrPC even in the case registered under the Special Act. Hence, the continuance of trial pursuant to the mutual settlement arrived at between the parties would be a futile exercise. Hence, to secure the ends of justice, it would be appropriate to quash and set aside the impugned FIR and all consequential proceedings initiated in pursuance thereof under Section 482 of the Cr.P.C..

[7.1] Insofar as offences under Sections 325 and 323 of the IPC are concerned, no any serious injury is sustained either by the complainant or the witness and therefore also, present petition deserves consideration. It is appropriate to refer to the decision of the Hon'ble Supreme Court in the case of **State of Haryana vs. Bhajan Lal** reported in **(1992) Supp (1) SCC 335** wherein it has

been observed and held as under:

"(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

[7.2] Insofar as offence under Sections 504 and 506(2) of the IPC is concerned, it is apt to refer to the decision of the Hon'ble Apex Court in the case of **Mohammad Wajid and Anr. v. State of U.P. and Ors.** reported in **2023 LiveLaw (SC) 624: 2023 INSC 683.** Even, the learned advocate for the complainant has submitted that the complainant is ready and willing to surrender whatever amount he has received towards compensation under the benevolent scheme of the government and that he will not claim any such amount in future.

[8.0] In the result, petition is allowed. The impugned FIR being **CR No.11191035221060 of 2022 registered with Naroda Police Station, Ahmedabad City** as well as all consequential

proceedings initiated in pursuance thereof are hereby quashed and set aside *qua* the petitioners herein. If the petitioners are in jail, the jail authority concerned is directed to release the petitioners forthwith, if not required in connection with any other case. Rule is made absolute to the aforesaid extent only. Direct service is permitted.

(HASMUKH D. SUTHAR, J.)

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