

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 16604 of 2021**

With

R/CRIMINAL MISC.APPLICATION NO. 12235 of 2021

With

R/CRIMINAL MISC.APPLICATION NO. 12205 of 2021

With

R/CRIMINAL MISC.APPLICATION NO. 11090 of 2021

With

R/CRIMINAL MISC.APPLICATION NO. 12538 of 2021

With

R/CRIMINAL MISC.APPLICATION NO. 14311 of 2021

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HEMALBHAI @ HEMANTBHAI PARSOTTAMBHAI JOTANGIYA

Versus

STATE OF GUJARAT & ANR.

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Appearance:

for the Applicant(s) No. 1

MS RIDDHI R GONDALIYA(13954) for the Applicant(s) No. 1

M S PADALIYA(7406) for the Respondent(s) No. 2

MS JYOTI BHATT, APP for the Respondent(s) No. 1

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**CORAM: HONOURABLE MR. JUSTICE CHEEKATI
MANAVENDRANATH ROY**

Date : 29/02/2024

ORAL ORDER

1. This batch of petitions under Section 482 of the Criminal Procedure Code are filed for quash of common FIR registered against the applicants being C.R.No.I-11213006210302 of 2021 registered with Bhayavadar Police Station, Rajkot Rural, for the offences punishable under Section 498-A, 354-A, 323, 504, 506 (2) and 114 of the Indian Penal Code.

2. As all the applicants are accused in the above crime and as they are seeking quash of the common FIR, these applications are heard together and they are being disposed of by this common order.

3. When the are came up for hearing, both the learned counsel for the petitioners and learned counsel for the second respondent-*defacto* complainant submit that the parties have entered into compromise and they have amicably settled the dispute between them and that the marriage between accused no.1 and the *defacto* complainant was dissolved by way of decree of divorce passed by the competent Court of law and that they have decided to compound the above offences. Learned counsel for the second respondent-*defacto* complainant has also filed the affidavit of the *defacto* complainant in all these applications, wherein she has stated that she has already obtained a decree of divorce by mutual consent from the Family Court, Ahmedabad, against accused no.1 in Family Suit No.663 of 2023 on 14.8.2023 and that in view of said settlement of dispute between her and the accused that she has no objection for quash of the aforesaid FIR registered against the applicants on her report.

4. The *defacto* complainant is also physically present before the Court today. When questioned, she unequivocally stated that in view of the decree of divorce that was obtained by her by mutual consent against her husband, who is accused no.1, and as the disputes are now amicably settled between them that she has no objection to quash the FIR that was registered against the applicants on her report. She has also stated that

she has voluntarily, out of her free will and volition, has entered into said compromise and there is no compulsion on her in arriving at the settlement.

5. Although the aforesaid offences are non-compoundable offences, as per the dictum laid down by a three Judge Bench of the Apex Court in the case **Gian Singh Vs. State of Punjab & Another**, reported in **(2012) 10 SCC 303**, in appropriate cases, this Court in exercise of its inherent powers under Section 482 of the Criminal Procedure Code, permit the parties to compound the offence even in non-compoundable offences, when there is no impact on the society. Even though some cases are enlisted in the said judgment where permission to compound the same cannot be granted, present case is not falling within the said exempted cases. So, the petitioners and the *defacto* complainant are entitled for permission to compound aforesaid offences.

6. Therefore, permission to compound the aforesaid offences is accorded, as sought for. The compromise is recorded.

7. Resultantly, all these applications are allowed and the aforesaid FIR being C.R.No.I-11213006210302 of 2021 registered with Bhayavadar Police Station, Rajkot Rural, against the petitioners is hereby quashed, in view of the compromise.

(CHEEKATI MANAVENDRANATH ROY, J)

R.S. MALEK