

2023 SCC OnLine Guj 2758

In the High Court of Gujarat at Ahmedabad
(BEFORE SAMIR J. DAVE, J.)

Bharatbhai Kanjibhai Kakadiya

Versus

State of Gujarat

R/Special Criminal Application No. 10719 of 2023

Decided on September 1, 2023

Advocates who appeared in this case:

Urvesh M. Prajapati(8878) for the Applicant(s) No. 1, 2, 3, 4, 5, 6, 7

Mr. Pratik Jasani, for the Respondent(s) No. 2

Mr. Bhargav Pandya, App for the Respondent(s) No. 1

The Order of the Court was delivered by

SAMIR J. DAVE, J.:— Mr. Pratik Jasani, learned advocate states that he has received instructions to appear for and on behalf of the respondent no. 2 and sought permission to appear on behalf of the respondent no. 2. Permission; as sought for; stands granted. He shall file his Vakalatnama before the Registry. Registry shall accept the same.

2. Rule. Learned APP waives service of notice of rule for and on behalf of the respondent no. 1-State and learned advocate Mr. Pratik Jasani waives service of notice of rule for and on behalf of the respondent no. 2.

3. Considering the issue 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 complainant has been resolved amicably, this matter is taken up for final disposal forthwith.

4. By way of this application under Section 482 of the Criminal Procedure Code, 1973 (hereinafter referred to as "the Code"), the applicants have prayed for quashing and setting aside FIR being C.R. No. 11213021230136 of 2023 registered with Jasdan Police Station, District Rajkot for the offence punishable under Sections 465, 467, 468, 471, 120B and 201 of the Penal Code, 1860; proceedings of Criminal Case No. 855 of 2023 pending before the court of learned Chief Judicial Magistrate, Rajkot as well as other consequential proceedings arising therefrom.

5. Learned counsel for the respective parties submitted that during pendency of the criminal proceedings, as referred to above, the parties

have amicably settled their issue by way of mutual settlement and pursuant to understanding arrived at, the Complainant has accordingly filed an affidavit, which is on record. The complainant has categorically stated in the affidavit that dispute is amicably resolved and has no objections if the present proceedings are quashed and there is no surviving grievance between them.

6. Heard learned advocates for the respective parties.

7. Having heard the learned counsel for the respective parties, considering the facts and circumstances arising out of the present application as well as taking into consideration the decisions rendered in the cases of *Gian Singh v. State of Punjab*, (2012) 10 SCC 303, *Madan Mohan Abbot v. State of Punjab*, (2008) 4 SCC 582, *Nikhil Merchant v. Central Bureau of Investigation*, (2009) 1 GLH 31, *Manoj Sharma v. State*, (2009) 1 GLH 190 and *Narinder Singh v. State of Punjab*, (2014) 2 Crimes 67 (SC), it appears that further continuation of criminal proceedings in relation to the impugned FIR against the applicants would be unnecessary harassment to the applicants. It appears that the trial would be futile and further continuance of the proceedings pursuant to the impugned FIR would amount to abuse of process of law and Court and hence, to secure the ends of justice, the impugned FIR and other consequential proceedings are required to be quashed and set aside in exercise of powers conferred under Section 482 of the Code.

8. Resultantly, this application is allowed. The impugned FIR being C.R. No. 11213021230136 of 2023 registered with Jasdan Police Station, District Rajkot; proceedings of Criminal Case No. 855 of 2023 pending before the court of learned Chief Judicial Magistrate, Rajkot as well as other consequential proceedings are hereby quashed and set aside qua the present applicants herein. Accordingly, Rule is made absolute.

9. If the applicants are behind the bar, Jail authority as well as Court concerned shall take necessary steps to release the applicants from the jail if they are not required in any other offence.

10. Direct service is permitted.