



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 14725 of 2024

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JAYESH JAYRAMBHAI DESAI & ANR.

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR JAGADISH R DESAI(10000) for the Applicant(s) No.
1,2

MR JIGAR D DAVE(6528) for the Applicant(s) No. 1,2
for the Respondent(s) No. 2

MR HARDIK DAVE PUBLIC PROSECUTOR WITH MR BHARGAV
PANDYA ADDITIONAL PUBLIC PROSECUTOR for the
Respondent(s) No. 1

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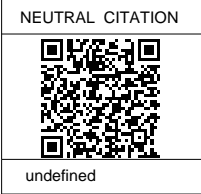
CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI

Date : 01/08/2024

ORAL ORDER

1. Heard the learned advocates appearing for the respective parties. The complainant is personally present before this Court and places on record an Affidavit stating that he has settled the dispute with the accused persons and the complainant is identified by the Investigating officer who is present before this Court.

2. **Rule.** Learned Additional Public Prosecutor as well as learned advocate appearing for the Complainant waive service of Rule on behalf of the



respective respondents.

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 respondent No.2 has been resolved amicably, this application is taken up for final disposal forthwith.

4. By way of this application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as "BNSS"), the applicants have prayed for quashing and setting aside F.I.R. bearing **C.R. No.11191044240152 of 2024 dated 28.6.2024 registered with Ghatlodia Police Station, District : Ahmedabad City** for the commission of offence punishable under Sections 294(b), 323, 506(1) and 114 of the Indian Penal as well as quash all other consequential proceedings arising out of the aforesaid FIR qua the applicants.

5. Learned advocate for the applicants has taken this Court through the factual matrix arising out of the present application. At the outset, it is submitted that the parties have amicably resolved the issue and therefore, any further continuance of the proceedings pursuant to the impugned FIR as well as any further proceedings arising therefrom would



create hardship to the applicants. It is submitted that respondent No.2 has filed an affidavit in these proceedings and has declared that the dispute between the applicants and respondent No.2 is resolved due to intervention of trusted persons of the society. It is further submitted that in view of the fact that the dispute is resolved, the trial would be futile and any further continuance of the proceedings would amount to abuse of process of law. It is therefore submitted that this Court may exercise its inherent powers conferred under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and allow the application as prayed for.

6. 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.

7. Learned advocate for respondent No.2 has reiterated the contentions raised by the learned advocate for the applicants. The learned advocate for respondent No.2 also relied upon the affidavit filed by respondent No.2 – Janak Upendraprasad Gaur dated 1.8.2024. Respondent No.2 is present in person before the Court and is identified by Investigating Officer who is present before this Court. On inquiry made by



the Court, respondent No.2 has declared before this Court that the dispute between the applicants and the respondent No.2 is resolved due to intervention of trusted persons of the society and therefore, now the grievance stands redressed. It is therefore submitted that the present application may be allowed.

8. Having heard learned advocates appearing 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 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), 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 hence, to secure the ends of justice, the impugned FIR is required to be quashed and set aside in exercise of powers conferred under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.



9. Resultantly, this application is allowed and the impugned FIR bearing **C.R. No.11191044240152 of 2024 dated 28.6.2024 registered with Ghatlodia Police Station, District : Ahmedabad City** filed against the present applicants is hereby quashed and set aside qua the applicants. Consequently, all other proceedings arising out of the aforesaid FIR are also quashed and set aside qua the applicants. Rule is made absolute. In view of the fact that the FIR is quashed, the direction issued by this Court yesterday i.e. on 31.7.2024 are not required to be complied with. Direct service is permitted.

(NIRZAR S. DESAI, J)

Pallavi