

**HIGH COURT OF GUJARAT
CORAM: HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR
Date of Decision: 25/01/2024**

R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 1541 of 2024

VIKAS DINESHBHAI SUKHADIYA

VERSUS

STATE OF GUJARAT

Legislation:

Section 482 of the Code of Criminal Procedure, 1973
Sections 498A, 323, 294(b), and 114 of the Indian Penal Code
Sections 3 and 7 of the Dowry Prohibition Act 1860
Subject: Application for quashing FIR and subsequent proceedings related to marital dispute and alleged dowry harassment, settled amicably between the parties.

Headnotes:

Application for Quashing FIR – Settlement of Marital Dispute – Quashing of FIR C.R. No.11191008220309 under Sections 498A, 323, 294(b), 114 of IPC and Sections 3, 7 of Dowry Prohibition Act due to amicable settlement between parties – Complaint originally filed by respondent No.2 against petitioner for dowry harassment. [Paras 1-5, 6]

Mutual Settlement – Affidavit by Complainant – Both parties resolved dispute amicably during proceedings – Complainant submitted affidavit stating no objection to quashing of proceedings. [Para 6]

Legal Principle on Quashing Proceedings – Reference to Supreme Court decisions – Criteria for exercise of power under Section 482 of Cr.P.C. – Consideration of whether continuation of proceedings serves any purpose post-settlement. [Paras 7-9]

Application Allowed – Quashing of Impugned FIR and Consequential Proceedings – Court finds further proceedings unnecessary and harassment to petitioner – Application under Section 482 of Cr.P.C. allowed, quashing FIR and related proceedings. [Paras 8-10]

Release of Applicant – Direction to release the applicant from jail if not required in any other case. [Para 11]

Referred Cases:

- **Abhishek vs. State of Madhya Pradesh [2023INSC779 / Criminal Appeal No. 1457 of 2015]**

- **Preeti Gupta and another vs. State of Jharkhand and another [(2010) 7 SCC 667]**
- **Central Bureau of Investigation vs. Ravi Shankar Srivastava [AIR 2006 SC 2872]**
- **State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335]**

Representing Advocates:

Ms. Priyankaben v. Sukhodiya for the original complainant

Manan V Patel for the applicant

Mr Chintan Dave, APP for the respondent

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 1541 of 2024**

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VIKAS DINESHBHAI SUKHADIYA

Versus

STATE OF GUJARAT

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= Appearance:

**MANAN V PATEL(8059) for the Applicant(s) No. 1 for
the Respondent(s) No. 2**

MR CHINTAN DAVE, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 25/01/2024

ORAL ORDER

1. Learned advocate Ms. Priyankaben v. Sukhodiya states that she has instructions to appear on behalf of the original complainant and thereby, seeks permission to file her Vakalatnama, which is granted. Heard learned advocates for the respective parties.

2. **RULE.** Learned advocates waive service of notice of rule on behalf of the respective respondents.

3. 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.

4. By way of this application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “Cr.P.C.”), the applicant has prayed to quash and set aside the complaint being FIR being **C.R. No.11191008220309 of 2022 registered with Chandkheda Police Station, Ahmedabad** for the offences under Sections 498A, 323, 294(b)) and 114 of Indian Penal Code and Sections 3 and 7 of the Dowry Prohibition Act 1860, Criminal Case No.5372 of 2022 as well as all the consequential proceedings arising therefrom.

5. Going through the compilation of the petition, it appears that the complain is filed at the instance of the respondent No.2. The present applicant – accused married with the respondent No.2-original complainant and the marriage was solemnized on 30.01.2022. As per allegations made in the complaint, it appears that after the marriage, she residing with his husband and his family members. It is further alleged that at the initial days behaviour of the family members of the husband is good but after some time, their behaviours were completely changed and they used to mentally and physically harassed the complainant and demanded the dowry from her. Hence, the complaint came to be filed. Now dispute is already settled between complainant and petitioners/accused and the same is private in nature and complainant has no objection, if the complaint is quashed. in view of above, the present application may be allowed.

5.1. Considering the fact that after the investigation and after the charge-sheet, the offence is culminated into Criminal Case No.5372 of 2022, which is pending for adjudication before the learned Additional Chief Judicial Magistrate, Gandhinagar. In the present case during the pendency of the present offence, divorce has taken place and they are living separately and the complainant does not want to continue with the litigation and no purpose would be served to continue with the litigation.

6. 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, which is taken / placed on record. In the Affidavit, the original complainant have categorically stated that the dispute with the applicant 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.

7. Having heard learned advocates for the respective parties and considered the material available on record, in the complaint, it is alleged that petitioner along with his family members have mentally and physically harassed the complainant. It appears that petitioners are facing charge of Section 498A of IPC. Therefore, as per the allegations made in the complaint, ingredient of Section 498A is made out. In this regard, it would be apposite to refer the decisions of the Apex Court in case of **Abhishek vs.State of Madhya Pradesh** reported in **2023INSC779 / (Criminal Appeal No. 1457 of 2015)** and in case of **Preeti Gupta and another vs. State of Jharkhand and another [(2010) 7 SCC 667]**, it is observed that *“this Court noted that the tendency to implicate the husband and all his immediate relations is also not uncommon in complaints filed under Section 498A IPC. It was observed that the Courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases, as allegations of harassment by husband’s close relations, who were living in different cities and never visited or rarely visited the place where the complainant resided, would add an entirely different complexion and such allegations would have to be scrutinised with great care and circumspection”*.

8. In the opinion of this Court, the further continuation of criminal proceedings against the applicant/s in relation to the impugned FIR would cause unnecessary harassment to the applicant/s. Further, 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..

9. In the aforesaid backdrop, complaint is filed. It is necessary to consider whether the power conferred by the High Court under section 482 of the Code of Criminal Procedure 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** and **SState of Haryana v. Bhajan Lal**, reported in **1992 Supp (1) SCC 335**, the Apex Court has set out the categories of cases in which the inherent power under Section 482 CrPC can be exercised and held in para 102 as under:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Art. 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised :

(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.”

10. In the result, the application is allowed. The impugned complaint being **C.R. No.11191008220309 of 2022** as well as Criminal Case No.5372 of 2022 and all consequential proceedings initiated in pursuance thereof are hereby quashed and set aside qua the applicant herein. Rule is made absolute. Direct service is permitted.

11. If the applicant is in jail, the jail authority concerned is directed to release the applicant forthwith, if not required in connection with any other case.

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