

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC. APPLICATION NO. 12751 of 2018
With
R/CRIMINAL MISC.APPLICATION NO. 13911 of 2019

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MOHAMED ARIF MOHAMED AKBAR KHAN
Versus
STATE OF GUJARAT & 1 other(s)

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Appearance:

MR NEERAJ J VASU(3159) for the Applicant(s) No. 1
MS. SONAL M JOSHI(6550) for the Respondent(s) No. 2
MS. MAITHILI D. MEHTA, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 02/09/2022

COMMON ORAL ORDER

1. Heard Mr. Dev Patel, learned counsel for Mr. Neeraj J. Vasu, learned counsel appearing for the applicant, Mr. Rahil Jain, learned counsel for Ms. Sonal M. Joshi, learned counsel appearing for the respondent no.2 and Ms. Maithili D. Mehta, learned APP appearing for the respondent No.1 – State.

2. As the parties and nature of dispute are identical, both the present Applications are decided with the present common order.

3. By way of this Application under Section 482 of the

Code of Criminal Procedure, 1973 (hereinafter referred to as “the Code”), the applicant (in Criminal Misc. Application No.12751 of 2018) has prayed for quashing and setting aside F.I.R. bearing I-C.R. No.34 of 2018 registered with DCB Police Station, Ahmedabad for the offences punishable under Sections 354(D) and 292 of the Indian Penal Code r/w. Section 67 of the Information Technology Act and to quash all other consequential proceedings arising out of the aforesaid F.I.R. qua the applicant herein.

4. By way of this Application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “the Code”), the applicant (in Criminal Misc. Application No.13911 of 2019) has prayed for quashing and setting aside F.I.R. bearing C.R. No.I-38 of 2019 registered with Sarkhej Police Station, Ahmedabad for the offences punishable under Sections 354(D) of the Indian Penal Code and to quash all other consequential proceedings arising out of the aforesaid F.I.R. qua the applicant herein.

5. Both the learned counsels would submit that during the pendency of present applications, the matters are amicably settled between the parties, and therefore, any further continuation of the proceedings pursuant to the impugned F.I.R.s would create hardship to the parties and further continuation of the proceedings would amount to abuse of process of law.

6. The respondent no.2 – original complainant in both the F.I.R.s.- Ms. Archana D/o. Anilbhai Jani- is present before this Court. Ms. Archana Jani, respondent no.2 – original complainant stated that she has entered into settlement with the applicant herein and there is no force or coercion and affidavit to the said effect is duly filed dated 22.06.2022 at page no.34 (in Criminal Misc. Application No. 12751 of 2018). The affidavit filed by the respondent no.2 – original complainant reads thus:

“I, the undersigned, Archana Anil Jani, Age:42, Occupation: Job, Sex: Female, Residing at: F-4, Shyam Apartments, B/h. Circuit House, Nr. Post Office, Shahibaug, Ahmedabad and respondent no.2 in the petition filed by Mohamed Arif Mohamed Akbar Khan for the purpose of Quashing of the F.I.R. filed by me vide I-C.R. No. 34 of 2018, state on oath the solemnly affirms that:

1. I say and submit that due to interference of the respected members of the society and family, mutual understanding is arrived between me and the original accused in the above said F.I.R. i.e. and now I don't have any grievance with them.

2. I further state that as such now I intend that since a settlement has been arrived and settlement agreement is duly signed by both the parties, I have no objection if the F.I.R. is quashed against Mohamed Arif Mohamed Akbar Khan Applicant/Accused.

3. I state that what is stated herein above is true and correct to the best of my knowledge, information and belief and I believe the same to be true.”

7. Ms. Mehta, learned APP submits that, she has no objection, if the impugned F.I.R.s, are quashed, in view of the settlement arrived at between the parties and as the nature is of the private dispute.

8. In the facts and circumstances of the present case, the parties are settle the dispute amicably, this Court is inclined to quash both the complaints / F.I.R.s being I-C.R. No. 34 of 2018 registered with DCB Police Station, Ahmedabad and I-C.R. No. 38 of 2019 registered with Sarkhej Police Station, Ahmedabad, qua the present applicant. Considering the nature of allegations and considering the fact that the matter has been settled between the parties amicably, no useful purpose will be served in continuing the investigation in the impugned First Information Reports.

9. Having heard the learned counsels appearing for the respective parties and considering the facts of settlement and law laid down by the Apex Court [**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),] this Court is of the considered view that further continuation of the criminal proceedings in relation to the impugned F.I.R.s would nothing

but unnecessary harassment to the parties and trial thereon would be futile and further continuation of the proceedings would amount to abuse of process of law. Thus, to secure the ends of justice, the impugned F.I.R.s are required to be quashed and set aside in exercise of powers conferred under Section 482 of the Code.

10. Resultantly, both these Applications are allowed and the impugned F.I.R.s bearing I-C.R. No. 34 of 2018 registered with DCB Police Station, Ahmedabad and I-C.R. No. 38 of 2019 registered with Sarkhej Police Station, Ahmedabad filed against present applicant are hereby quashed and set aside and all other proceedings arising out of the aforesaid F.I.R. including charge-sheet and Criminal Case, if filed, are also quashed and set aside qua the present applicant. Both these Applications stand allowed in terms of the settlement. The impugned F.I.R.s are quashed on the basis of consensus arrived at between both the parties. It is clarified that the Court has not gone into merits of the matters. Rule is made absolute to the aforesaid extent.

Direct service is permitted.

(VAIBHAVI D. NANAVATI,J)

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