

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 5532 of 2024**

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SAMPATIBEN GIRIRAJSIKH NARAYANSIKH GURJAR & ORS.
Versus
STATE OF GUJARAT & ANR.

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Appearance:

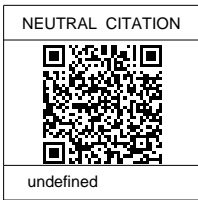
VASIMRAJA A KURESHI(8609) for the Applicant(s) No. 1,2,3,4
for the Respondent(s) No. 2
MR KANVA ANTANI, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 08/05/2024
ORAL ORDER

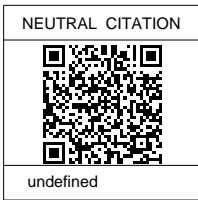
1. **RULE.** Learned advocates waive service of notice of rule on behalf of the respective respondents.
2. Considering the facts and circumstances of the case and since it is jointly stated at the Bar by learned advocates on both the sides that the dispute between the parties has been resolved amicably, this matter is taken up for final disposal forthwith.
3. 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 **C.R. No.11196012230578 of 2023 registered with Fathegunj Police Station, Vadodara** for the offences under Sections 4(1)(3), 5(c)5(e) of the Land Grabbing Act and Sections 504 and 114 of Indian Penal Code, 1860 and all the consequential proceedings arising therefrom.



4. 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 has categorically stated that the dispute with the applicant/s 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.

5. Having heard learned advocates on both the sides and considering the facts and circumstances of the case, it appears that the complaint alleges that petitioners No. 1 and No. 2 took a property on rent in the year 1970 and retained possession without paying rent. In the year 2009, it was discovered they had sublet it to petitioner No. 3. When asked to vacate, a quarrel ensued, with petitioner No. 3 threatening dire consequences. In the year 2019, petitioners No. 1 and No. 2 promised to vacate for a sum, but when refused, petitioners No. 3 and No. 4 started a garage on the property in 2022. This led to the filing of an FIR by the complainant/respondent No. 2. However, now the matter is amicably settled between the parties and in this regard the complainant has filed an affidavit stating that hie has not objection if the complaint is quashed. As the matter is amicably settled between the parties, no fruitful purpose would be served to proceed with the matter.

6. In view of the principle laid down by the Apex Court in the



cases of (i) **Gian Singh Vs. State of Punjab & Anr.**, reported in (2012) 10 SCC 303, (ii) **Madan Mohan Abbot Vs. State of Punjab**, reported in (2008) 4 SCC 582, (iii) **Nikhil Merchant Vs. Central Bureau of Investigation & Anr.**, reported in 2009 (1) GLH 31, (iv) **Manoj Sharma Vs. State & Ors.**, reported in 2009 (1) GLH 190 and (v) **Narinder Singh & Ors. Vs. State of Punjab & Anr.** reported in 2014 (2) **Crime 67 (SC)**, 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..

7. It is also appropriate to refer to the decision of the Hon'ble Supreme Court in the case of **State of Haryana vs. Bhajan Lal** reported in (1992) **Supp (1) SCC 335** wherein it has been observed and held as under:

“(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;

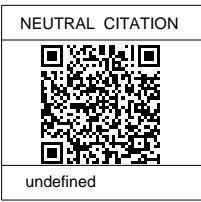
(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious 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.”

8. 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.

9. In the result, the application is allowed. The impugned



complaint being **C.R. No.11196012230578 of 2023 registered with Fathegunj Police Station, Vadodara** as well as all consequential proceedings initiated in pursuance thereof are hereby quashed and set aside qua the applicant/s herein. Rule is made absolute. Direct service is permitted. If the applicant/s is/are in jail, the jail authority concerned is directed to release the applicant/s forthwith, if not required in connection with any other case.

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(HASMUKH D. SUTHAR,J)