



## IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

### R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE FIR/ORDER) NO. 8717 of 2024

SAJIDBHAI ILIYASBHAI MEMAN

Versus

STATE OF GUJARAT & ANR.

Appearance:

MR R P PATEL(9621) for the Applicant(s) No. 1

for the Respondent(s) No. 2

MS DIVYANGNA JHALA, ADDL. PUBLIC PROSECUTOR for the  
Respondent(s) No. 1

CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

**Date : 06/05/2024**

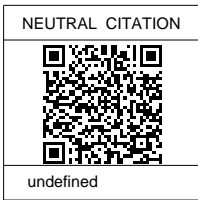
#### ORAL ORDER

[1.0] Learned advocate Mr. Dipak D. Prajapati states that he has instructions to appear on behalf of the original complainant and seeks permission to file his Vakalatnama, which is granted. Heard learned advocates for the respective parties.

[2.0] **RULE.** Learned advocates waive service of note of rule on behalf of the respective respondents.

[3.0] 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.

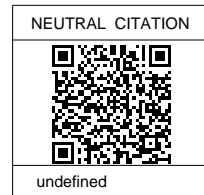
[4.0] By way of this petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "CrPC"), the



petitioner has prayed to quash and set aside the FIR being **CR No.11207028220177 of 2022 registered with Halol Town Police Station, District Panchmahal** for the offences punishable under Section 31(1) of the Domestic Violence Act and to quash all other consequential proceedings arising therefrom.

[5.0] 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 dated 23.04.2024 which is produced with the petition at Annexure-B. In the Affidavit, the original complainant has categorically stated that the dispute with the petitioner has been resolved amicably and that she has no objection, if the present proceedings are quashed and set aside since there is no surviving grievance between them.

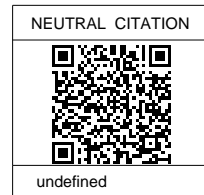
[6.0] Going through the impugned FIR which is filed at the instance of respondent No.2, it is alleged that the complainant had filed Case No.153/2018 against the present petitioner in the Court of learned JMFC, Halol, wherein, on 12.09.2019, learned Magistrate passed an order directing the present petitioner not to cause any atrocity upon the respondent No.2 and to pay monthly Rs.500/- towards house rent and Rs.5000/- towards compensation to the respondent No.2 herein still however, the petitioner – accused did not return the *Stridhan* to respondent No.2 and thereby did not comply with the direction given by the learned Magistrate and by violating the said order, the petitioner



accused has committed the offence. In this regard complaint came to be filed.

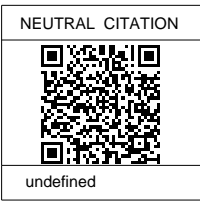
[6.1] It is worth to mention that it appears from the perusal of the complaint that with a view to execute the order passed by the learned JMFC in the proceeding of Domestic Violence Act, present complaint being filed, which is nothing but abuse of process of law. It is also needless to say that there is a separate machinery available for the execution of order passed by the Court. *Be that as it may*, during the pendency of investigation, settlement took place between the parties.

[7.0] It is necessary to consider whether the power conferred by the High Court under section 482 of the CrPC 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**.

[8.0] Having heard learned advocates on both the sides and considering the facts and circumstances of the case as also 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**; (v) **Narinder Singh & Ors. Vs. State of Punjab & Anr.** reported in **2014 (2) Crime 67 (SC)** and (vi) **State of Haryana vs. Bhajan Lal** reported in **(1992) Supp (1) SCC 335** as also considering the fact that during investigation, settlement has been arrived at between the parties and the complainant has filed an affidavit dated 23.04.2024 and affirmed the fact of settlement and therefore, now as the dispute is amicably settled, there is no chance of breach of public tranquility and hence, in the opinion of this Court, the further continuation of criminal proceedings against the present petitioner in relation to the impugned FIR would cause unnecessary harassment to the petitioner. 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..

[9.0] In the result, petition is allowed. The impugned FIR being **CR No.11207028220177 of 2022 registered with Halol Town Police Station, District Panchmahal** as well as all consequential proceedings initiated in pursuance thereof are hereby quashed and set aside *qua* the petitioner herein. If the petitioner is in jail, the jail authority concerned is directed to release the petitioner forthwith, if not required in connection with any other case. Rule is made absolute to the aforesaid extent only. Direct service is permitted.

**(HASMUKH D. SUTHAR, J.)**

*Ajay*