



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**  
**R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE**  
**FIR/ORDER) NO. 9547 of 2024**

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MOHITKUMAR AMRUTLAL MAKVANA & ORS.  
Versus  
STATE OF GUJARAT & ANR.

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Appearance:

MR PRATIK Y JASANI(5325) for the Applicant(s) No. 1,2,3  
MR PURVESH PRAJAPATI for the Respondent(s) No. 2  
MR JAY MEHTA APP for the Respondent(s) No. 1

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**CORAM:HONOURABLE MR. JUSTICE PRANAV TRIVEDI**

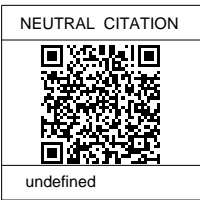
**Date : 22/05/2024**

**ORAL ORDER**

1. Learned advocate Mr. Purvesh Prajapati appears for the respondent no.2 – original complainant. Learned APP has produced report of the Assistant Police Commissioner, Rajkot City dated 21.05.2024, which is taken on record.

2. **Rule.** Learned advocates waive service of notice of rule on behalf of respective respondents. By consent, Rule is fixed forthwith.

3. This application has been filed under section 482 of the Code of Criminal Procedure for



quashing and setting aside the FIR being FIR No.11208044220618 registered with Pradyumnagar Police Station, Dist.: Rajkot City for offences punishable under sections 3, 4(3), 5(a), 5(c) and 5(e) of the Gujarat Land Grabbing (Prohibition) Act, 2020 and sections 504, 506(2) and 34 of IPC.

4. Mr. Pratik Y.Jasani, learned advocate for the applicants, submitted that the parties have settled the dispute amicably outside the Court and that there remains no grievance between them. Therefore, in the larger interest of the society, the impugned complaint may be quashed and set aside.

5. Mr. Purvesh Prajapati, learned advocate for respondent no.2 - original complainant, concurred with the factum of settlement of the dispute, as advanced by learned advocate Mr. Pratik Y.Jasani appearing for the applicants.

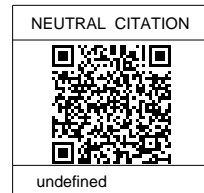
6. This Court has heard the learned



advocates on both the sides and has perused the material on record. The respondent no.2 - original complainant has affirmed the Affidavit dated 15.05.2024. The respondent no.2 - original complainant, categorically stated that he has no grievance against the applicants and that he has no objection to the quashment of the impugned first information report filed by him.

7. Mr. Jay Mehta, learned Public Prosecutor, submitted that any First Information Report should be quashed in accordance with the guidelines of the Apex Court and the parameters laid down therein.

8. In the Affidavit dated 15.05.2024 filed by respondent no.2 - original complainant, it has been categorically averred that the dispute with the applicants has been amicably resolved. It is also averred that there is no ill-will between the parties and that the original complainant had



not sustained any serious injury in the alleged incident. It is further averred in the affidavit that if the criminal proceedings continued, then both the sides would be subjected to rigors of criminal trial, which will immensely affect their future prospects of better life, and he does not want wish to prosecute the criminal proceedings against the applicants, as the dispute between them is amicably settled, and therefore the FIR and all subsequent proceedings arising therefrom may be quashed and set aside.

9. Considering the principle laid down by the Apex Court in the case of **Gian Singh v. State of Punjab and another** reported in 2012 (10) SCC 303, the present matter would fall under the criteria laid down therein. In paragraph-61 of the said judgment, it has been observed thus:

*"61. The position that emerges from the above discussion can be summarised thus: the power of the*



*High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed*



*even though the victim or victims family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominately civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court*



*may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."*



10. In case of **State of Haryana V. Bhajan Lal and others**, reported in **AIR 1992 SC 604**, the Apex Court formulated as many as seven categories of cases, wherein the extraordinary power under Section 482 could be exercised by the High Court to prevent abuse of process of the court. It was clarified that it was not possible to lay down precise and inflexible guidelines or any rigid formula or to give an exhaustive list of circumstances in which such power could be exercised. The Hon'ble Apex Court made the following observations:-

*"8.1. In the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, the following categories of cases are given 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 guide in myriad kinds of cases wherein such power should be exercised:*

*(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;*

*(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;*

*(c) where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against*



*the accused;*

*(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;*

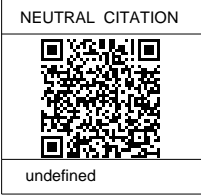
*(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;*

*(f) 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;*



*(g) 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."*

11. In the present case, the impugned complaint was filed on 30.07.2022 and the Affidavit of the original complainant - respondent no.2 herein, regarding settlement of the dispute has been executed on 15.05.2024. Admittedly, the dispute is a private and personal affair. The injury sustained does not involve any mental depravity nor amounts to a heinous crime. In view of the settlement arrived at between the parties, there exists no scope for any further proceeding in the matter. The continuance of proceedings would lead to wastage of precious judicial time as there would remain no possibility of any conviction in the case. Hence,



the Court is of the opinion that this is a fit case where the inherent powers of the Court under section 482 of the Cr.P.C. could be exercised for securing the ends of justice.

12. In the result, the petition is allowed. The impugned first information report being FIR No.11208044220618 registered with Pradyumannagar Police Station, Dist.: Rajkot City, and the proceedings initiated in pursuance thereof are quashed and set aside. Rule is made absolute. Direct service is permitted.

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**(PRANAV TRIVEDI,J)**