

2023 LiveLaw (SC) 620

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
A.S. BOPANNA; J., PRASHANT KUMAR MISHRA; J.
AUGUST 08, 2023.

CRIMINAL APPEAL NO.2322 OF 2023 (@ SLP (Cr.) No. 9651/2023 @ DIARY NO. 17994/2022)

IQBAL HASANALI SYED versus THE STATE OF GUJARAT & ANR.

Code of Criminal Procedure, 1973; Section 482 - Quashing of FIR - the complainant had named the appellant and alleged complicity based on a misconception and therefore, at this stage, having realized the same, has indicated that he does not wish to prosecute the complaint as against the appellant. Therefore, the FIR as against the appellant, would not be appropriate and all further action unnecessary.

(Arising out of impugned final judgment and order dated 02-06-2022 in CRLMA No. 8951/2022 passed by the High Court of Gujarat at Ahmedabad)

For Petitioner(s) Mr. Huzefa Ahmed, Sr. Adv. Mr. Devvrat, AOR Mr. Abid Ali Beeran P, Adv. Mr. Aniq Kadri, Adv. Mr. Sarath S Janardanan, Adv.

For Respondent(s) Ms. Swati Ghildiyal, AOR Ms. Deepanwita Priyanka, Adv. Ms. Devyani Bhatt, Adv. Mr. Ishaan George, AOR

ORDER

Application seeking impleadment is allowed.

Delay condoned.

Issue notice.

Leave granted.

Heard the learned senior counsel for the appellant and learned counsel for the respondent-State as also the impleaded respondent. The instant appeal is filed by the respondent assailing the order dated 02.06.2022 passed by the High Court whereby the petition filed by the appellant under section 482 of Cr.PC seeking quashing of the FIR dated 15.05.2022, wherein the appellant had been named. From a perusal of the order passed by the High Court, we note that the High Court has taken into consideration the rival contentions and has thereafter arrived at its conclusion.

In the instant appeal, the entire issue revolves around only the prayer made by the appellant herein and in that light seeking quashment of the FIR and further proceedings as against the appellant, in the circumstances as stated. Therefore, while taking note of this aspect and in that light making reference to the affidavit produced along with IA No.153718 of 2023, the complainant himself has referred to the nature of the incident and the reason for which he had named the appellant.

Therefore, taking that aspect into consideration, a further perusal of the affidavit would indicate that the complainant had named the appellant and alleged complicity based on a misconception and therefore, at this stage, having realized the same, has indicated that he does not wish to prosecute the complaint as against the appellant. Therefore, if this additional aspect of the matter is kept in view and the order passed by the High Court is taken into consideration, we are of the opinion that in the present facts and circumstances, the FIR as against the appellant herein, would not be appropriate and all further action unnecessary. Therefore, the prayer as made, is to be accepted. Accordingly, the order impugned herein is set aside.

Crl.A. NO. 2322 of 2023

Consequently, the appeal is allowed and it is ordered that the FIR dated 15.05.2022 as against the appellant shall stand quashed. We make it clear that insofar as other aspects of the matter and the remaining accused, we have not expressed any opinion in the course of this order.

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