

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION NO. 16287 of 2020

=====

MILIND VINODBHAI RAY & 1 other(s)
Versus
STATE OF GUJARAT & 1 other(s)

=====

Appearance:

MR ZUBIN F BHARDA(159) for the Applicant(s) No. 1,2
for the Respondent(s) No. 2
MS. M.H. BHATT, APP for the Respondent(s) No. 1

=====

CORAM: **HONOURABLE MR. JUSTICE B.N. KARIA**

Date : 15/12/2020

ORAL ORDER

By way of present application, applicants have prayed to quash and set the complaint being C.R.No.I-2 of 2019 registered with DCB Police Station, Vadodara for the offence punishable under Sections 406, 420 and 120(B) of the Indian Penal Code and further prayed to stay the further proceedings thereto.

Heard learned advocate for the applicants.

It is submitted by learned advocate for the applicants that a pure and simple case of civil dispute has been converted by the complainant into a criminal offence by registering the

impugned FIR as the only issue even if the allegations levelled by the complainant are accepted in their entirety is that the complainant and his family members did not receive the amount of sale consideration from the purchasers in whose favour they were made to execute the registered sale deed. What is required to be appreciated is that because the entire dispute raised by the complainant and his family members was purely of civil in nature and ultimately the complainant and his family members accepted a further sum of Rs.1,02,00,000/- from the subsequent purchaser and have not only withdrawn the civil suit but have also executed a Memorandum of Understanding, which was produced before the Civil Court which ultimately allowed the withdrawal of the suit that was prayed for by the complainant and the other family members. Therefore, when the entire issue has been settled and when the complainant and his family members have expressed their satisfaction by accepting more money under the garb of settlement, the continuation of investigation by the Investigating Officer would amount to abuse of process of law

as it only result into causing harassment to the applicants. It is further submitted that applicant no.2 is already released on anticipatory bail by the Trial Court and name of present applicant No.1 was not disclosed in the complaint.

Issue requires consideration.

Hence, **Notice** returnable on 02.02.2021. Learned APP waives service of notice for and on behalf of the respondent-State.

No coercive steps shall be taken against present applicant no.1 only till the next date of hearing.

Registry is directed to send a copy of this order to the concerned Police Station through email or fax forthwith.

VARSHA DESAI

(B.N. KARIA, J)