

2. We have heard Shri Saif Zia, learned counsel appearing on behalf of the appellants and Shri Siddhartha Dave, learned Senior Advocate appearing on behalf of the original complainant.

At the outset, it is required to be noted that prior in time the appellants herein – original accused had filed an FIR against the complainant herein being I-C.R. No. 337/2007 dated 23.04.2007 with the Satellite Police Station and the charge sheet came to be filed against the complainant herein and the matter is presently pending adjudication before the JMFC, Ahmedabad (Rural). It is also required to be noted that the appellants herein are the son and grandson of the original complainant and the original complainant is the mother of appellant No.1 and grandmother of appellant No.2 (accused herein).

2.1 As per the allegations in the FIR in question, appellant No.1 by forging the signature of the complainant included the name of appellant No.2 – grandson in the joint bank account of appellant No.1 and the complainant and thereafter appellant No.2 on the basis of the bank slips withdrew a total sum of Rs. 10,50,000/- from the said joint bank account, which was originally the joint account of appellant No.1 and the complainant.

3. Learned counsel appearing on behalf of the appellants has vehemently submitted that as such the disputed signatures on

documents D3 and D5 tally with the original signatures of the complainant on D1, D2, D4 and D6. He has heavily relied upon the FSL report (Annexure P2). It is submitted that as such the appellants tried their best to resolve the dispute amicably being a family dispute, however, efforts have failed.

3.1 Learned counsel appearing on behalf of the appellants has stated at the Bar that the appellants are ready and willing to return the entire amount of Rs. 10,50,000/- to the complainant with 12% simple interest from 1.6.2007 till date to put an end to the litigation so that relations between the appellants and the complainant again become cordial.

4. Shri Siddhartha Dave, learned Senior Advocate appearing on behalf of the complainant made submissions on merits and has submitted that when the learned trial Court as well as the revisional Court and thereafter the High Court have concurrently refused to discharge the accused, the same may not be interfered with by this Court. However thereafter when we *prima facie* opined that this is a fit case to discharge the accused and quash the criminal proceedings filed against the appellants, he has prayed that in that case the criminal proceedings against the complainant arising out of I-C.R. No. 337/2007 filed with the Satellite Police Station filed by the appellants be also quashed.

5. Learned counsel appearing on behalf of the appellants has stated at the Bar that to have cordial relations between the appellants and the complainant, who is the mother of appellant No.1, the appellants have no objection if the said criminal proceedings are also quashed by this Court, in exercise of powers under Article 142 of the Constitution of India.

6. Having heard learned counsel for the respective parties and considering the material on record and more particularly the opinion/report of the FSL produced at Annexure P-2 and the disputed documents D3 and D5 and the signatures of the complainant compared with her signatures on documents marked as D1, D2, D4 and D6 and looking to the relationship between the appellants and the original complainant of son, grandson and the mother/grandmother, we are of the opinion that to continue the criminal proceedings against the appellants would not be in the larger interest of the parties. Even otherwise on merits also, taking into consideration the report of the FSL (Annexure P-2) and the disputed documents D3 and D5, we are of the opinion that this is a fit case to quash the criminal proceedings against the appellants.

7. Considering the fact that the dispute is between the mother on the one side and the son and grandson on the other side, with the consent

of learned counsel for the respective parties and even as agreed by the learned counsel appearing on behalf of the appellants, we deem it appropriate to quash the criminal proceedings against the original complainant arising out of FIR being I-C.R. No. 337/2007 with the Satellite Police Station, in exercise of powers under Article 142 of the Constitution of India. However, at the same time, as agreed, the appellants shall return the entire amount of Rs. 10,50,000/- with 12% simple interest from 01.06.2007 till date to be paid within a period of one week from today and on that the present criminal proceedings against the appellants are hereby quashed and set aside.

8. In view of the above and for the reasons stated above, the present appeal succeeds. The criminal proceedings against the appellants herein arising out of FIR being I-C.R. No. 293/2007 with the Sarkhej Police Station and Criminal Case No. 3398/2009 pending before the learned JMFC, Ahmedabad (Rural) are hereby ordered to be quashed and set aside. The appellants to return/pay Rs.10,50,000/- with 12% simple interest to the complainant w.e.f. 01.06.2007 till date by way of Demand Draft/Pay Order in the name of the original complainant – mother, within a period of one week from today.

9. In exercise of powers under Article 142 of the Constitution of India and with the consent of the learned counsel appearing for the respective

parties and as agreed by the appellants, criminal proceedings against the complainant herein arising out of FIR being I-C.R. No. 337/2007 with the Satellite Police Station are also ordered to be quashed and set aside so that there may be cordial relations again between the appellants and the complainant herein – mother, son and grandson. We hope and trust that the wiser sense will prevail and there shall be cordial relations between the parties.

10. The present appeal stands disposed of in the aforesaid terms.

.....J.
[M.R. SHAH]

NEW DELHI;
MARCH 24, 2023.

.....J.
[KRISHNA MURARI]