

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL REVISION APPLICATION (AGAINST ORDER PASSED BY
SUBORDINATE COURT) NO. 983 of 2016**

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Approved for Reporting	Yes	No
		√

NURRUDINALI HASANALI LALANI

Versus

RAHULBHAI ISHAKBHAI SHORA & ANR.

Appearance:

MR HARSHIL C DATTANI(6241) for the Applicant(s) No. 1

MR M R SAIYED(3362) for the Respondent(s) No. 1

PUBLIC PROSECUTOR for the Respondent(s) No. 2

CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 30/04/2026

JUDGMENT

[1.0] Though learned advocate for the applicant is on leave note, in view of directions issued by the Hon'ble Supreme Court in the case of **Vijay Kumar & Ors vs. The State of Rajasthan** rendered in **Special Leave Petition (Criminal) Diary No. 71965/2025 dated 08.01.2026** as well as in view of the judgment of the Hon'ble Apex Court in the case of **Taj Mohammad v. State of Uttar Pradesh, decided on 11.08.2023 in Criminal Appeal No.2421 of 2023**, this Court has considered the averments made in the application as well as the material placed on record and has proceeded to decide the matter in absence of the applicant or learned advocate for the applicant based on available material on record.

[2.0] By way of present revision application under Section 397 read with

Section 401 of the Code of Criminal Procedure, 1973 (for short "CrPC"), the applicant has prayed for quashing and setting aside of the order dated 27.10.2016 passed below Exh.8 by the learned Special Judge (POCSO), at Dhoraji in Special Case (POCSO) No.19/2016 and to allow the application Exh.8 which was filed under Section 227 of the CrPC seeking discharge.

[3.0] Perusing the record and the memo or revision application, it appears that the respondent No.1 herein filed an FIR being I-CR No.5/2016 with Bhayavadar Police Station, Rajkot for the offence punishable under Sections 363 and 366 of the Indian Penal Code, 1860 (for short "IPC") against one Rahim @ Raju Juneja pursuant to which investigating agency conducted the investigation and filed charge-sheet against total 5 persons including the present applicant, who is arraigned as accused No.4 for the offence under Sections 363, 366, 376(2)(N), 465, 212 and 114 of the IPC and sections 6, 8 and 12 of the Protection of Children from Sexual Offences Act. The allegation is that the present applicant rendered his services as an Advocate and had given an advise to get register the marriage and at the instance of present applicant, accused No.5 went to Thodi Gram Panchayat and got registered the marriage on 24.01.2016 and it is alleged that the said marriage certificate is forged one.

[4.0] Perusing the allegations levelled against the applicant, *prima facie*, it appears that present applicant rendered his professional services and had given advise to get register the marriage and except this no any role is attributed to the present applicant *qua* forging of marriage certificate and there is not an iota of material or evidence to show the involvement of the present applicant and therefore, offence under Section 465 of the IPC is not made out against the present applicant even in aid of sections 8 or 12 of the POCSO Act. Therefore, the learned Special Judge has

committed an error in dismissing the discharge application Exh.8 of the present applicant.

[5.0] Further, the concept of discharge in criminal jurisprudence operates as a constitutional safeguard, ensuring that no individual is compelled to undergo the burdens of a criminal trial unless the prosecution first meets the minimal judicially-recognisable threshold of a *prima facie* case. Considering the concept of fair trial and safeguard provided under the Code reveals through investigation papers that no *prima facie* offence is made out and once offence is not made out and charge levelled against the applicant – accused is found groundless, in that event, it is the duty of the Court to see to it that the applicant is not put to any harassment and such trial is nothing but sheer wastage of judicial time and it is unjust to continue the prosecution against such an accused.

[6.0] In wake of aforesaid conspectus, present revision application is **allowed**. Impugned order dated 27.10.2016 passed below Exh.8 by the learned Special Judge (POCSO), at Dhoraji in Special Case (POCSO) No.19/2016 and to allow the application Exh.8 is hereby quashed and set aside *qua* the present applicant – **NURRUDINALI HASANALI LALANI** and application Exh.8 filed by the applicant is hereby allowed and the applicant herein is discharged from the charges for the offences punishable under Sections 363, 366, 376(2)(N), 465, 212 and 114 of the IPC and sections 6, 8 and 12 of the Protection of Children from Sexual Offences Act. Rule is made absolute to the aforesaid extent. Record & Proceedings, if any, be returned back to the concerned Court. Direct service is permitted.

Sd/-
(HASMUKH D. SUTHAR, J.)

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