

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL REVISION APPLICATION (AGAINST ORDER PASSED BY
SUBORDINATE COURT) NO. 202 of 2018**

**FOR APPROVAL AND SIGNATURE:
HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

Approved for Reporting	Yes	No
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MANISH GOPALDAS SHAH
Versus
STATE OF GUJARAT

Appearance:

MR SANJAY PRAJAPATI(3227) for the Applicant(s) No. 1
MR SM DERASARI(5321) for the Applicant(s) No. 1
MS MONALI BHATT, APP for the Respondent(s) No. 1

CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

**Date : 30/04/2026
JUDGMENT**

[1.0] 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 21.04.2017 passed below Exh.3 by the learned Judge, Court No.20, City Civil Court, Ahmedabad in Sessions Case No.78/2017 and to allow the application Exh.3 which was filed under Section 227 of the CrPC seeking discharge.

[2.0] Heard learned advocate Mr. Sanjay Prajapati appearing for the applicant and learned APP Mr. Monali Bhatt for the respondent – State of Gujarat.

[3.0] The brief facts of the case are that, the complainant on 11.04.2008

at about 10.45 a.m. was standing at Ellisbridge Junction while traffic signal was red and at the same time, the applicant – accused was also allegedly standing at the signal in his Skoda Octavia Car and when the signal got on, complainant was going towards Gandhi Road for going to his shop and at that time, the applicant – accused drove his car rashly and negligently and the complainant apprehended that the applicant was going to hit the complainant with his car and therefore, the complainant stood on the side of the road of Ellisbridge and the applicant passed from near the complainant however, the applicant's car did not hit the complainant and no injury was caused. However, the complainant did not file the complaint on that day till 06.08.2011 i.e. after 30 months the complainant filed the FIR being I-CR No.318/2011 with Ellisbridge Police Station, Ahmedabad City against the present applicant for the offence under Section 307 of the IPC. After investigation, charge-sheet came to be filed which culminated into Sessions Case No.78/2017. The applicant – accused filed an application Exh.8 under Section 227 of the CrPC seeking discharge which came to be rejected by the learned Additional City Sessions Judge. Hence, present revision application is filed.

[4.0] Having heard the learned advocates appearing for the respective parties and going through the record, it appears that the complainant – respondent No.1 herein has filed the FIR in connection with the alleged incident which took place on 11.04.2008 at about 10.45 a.m. while the complainant was standing at Ellisbridge Junction as traffic signal was red and at the same time, the applicant – accused was also allegedly standing at the signal in his Skoda Octavia Car and when the signal got on, complainant was going towards Gandhi Road for going to his shop and at that time, the applicant – accused drove his car rashly and negligently and the complainant apprehended that the applicant was going to hit the complainant with his car and therefore, the complainant stood on the side of the road of Ellisbridge and the applicant passed from near the

complainant however, the applicant's car did not hit the complainant and no injury was caused. However, the complainant did not file the complaint on that day till 06.08.2011 i.e. after 30 months the complainant filed the FIR being I-CR No.318/2011 with Ellisbridge Police Station, Ahmedabad City against the present applicant for the offence under Section 307 of the IPC. The allegation against the applicant is that the complainant is having suspicion or doubt that the applicant keeping grudge of earlier offence which was committed by the applicant – accused in the year 2006 has tried to hit the complainant with his car. However, it has come on record that in connection with the said earlier offence, the applicant has been discharged.

[5.0] Perusing the investigation papers and allegations levelled in the complaint, it transpires that no one has sustained any injury and even otherwise the FIR is filed after 30 months of the alleged incident under suspicion that the applicant keeping grudge of earlier offence, of collection of ransom by the present applicant, registered against him had tried to hit the complainant with his car. Except this, there is no any material or an iota of evidence to show that there was any intention on the part of the applicant – accused to cause death or hurt to the complainant and there is no any material which establishes *mens rea* or involvement on the part of the present applicant and merely based on suspicion, the FIR is filed and it is needless to say that mere suspicion however strong may be can never take place of proof. In view of above, in absence of any legal evidence or material merely based on suspicion, FIR is filed against the applicant more particularly keeping grudge of earlier offence wherein the applicant – accused has already been discharged by the concerned Court.

[6.0] 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.

[7.0] In wake of aforesaid conspectus, present revision application is **allowed**. Impugned order dated 21.04.2017 passed below Exh.3 by the learned Judge, Court No.20, City Civil Court, Ahmedabad in Sessions Case No.78/2017 is hereby quashed and set aside *qua* the present applicant – **MANISH GOPALDAS SHAH** and application Exh.3 filed by the applicant is hereby allowed and the applicant herein is discharged from the charges for the offence punishable under Section 307 of the Indian Penal Code, 1860. Rule is made absolute to the aforesaid extent. Record & Proceedings, if any, be returned back to the concerned Court. Direct service is permitted.

Ajay

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