NEUTRAL CITATION
2026:GUJHC:57092

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE FIR/ORDER) NO. 6820 of 2014

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE P. M. RAVAL

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Approved for Reporting	Yes	No

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MADINABEN ABDULBHAI PATEL & ORS.
Versus
STATE OF GUJARAT & ORS.

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Appearance:
MR MM SAIYED(1806) for the Applicant(s) No. 1,2,3,4,5
HCLS COMMITTEE(4998) for the Respondent(s) No. 3
MS MARIYA M DALAL(3957) for the Respondent(s) No. 3
NOTICE SERVED for the Respondent(s) No. 2,4
ROHAN N SHAH APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR.JUSTICE P. M. RAVAL**

Date : 08/09/2026

ORAL JUDGMENT

1. By way of the present Petition, the petitioners have prayed to quash and set aside the impugned FIR bearing FIR No. I-21/2014 registered with B Division Police Station, Bharuch, for the offences punishable under Section 406,420,114 and 504 of the IPC and other consequential proceeding arising therefrom.

2. The facts in nutshell are to the effect that:-

2.1 It is alleged that the accused No. 1 is the complaint's mother and the accused No. 2 is the Original Complainant’s

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sister. The Complainant of this case had entered into a love marriage against the will of her parents. Consequently accused Nos. 1 and 2 went to the complainant's house over the past six months and told the Complainant's sister," You live here alone and many incidents of theft occur, so your life is in danger." Thus, under the pretext of keeping everything safe, all the gold and documents such as her husband's passport, election card, Aadhar Card etc they took away by winning her trust. When the complainant demanded such things back, they committed a breach of trust and cheating by not returning them. The alleged accused Nos. 3,4 and 5 instigated and assisted in the same and thereby, committed the offense.

3. Learned Advocate for the petitioner at the outset would submit that the Petitioner No. 5 herein, namely Abdulrasid Ahmed Patel has expired on 12.05.2021 and his death certificate is already on record at Page No. 97 to the memo of the Petition. Hence, this Petition is abated qua him.

3.1 So far as petitioner Nos. 1 and 2 are concerned, the Learned Advocate does not press this Petition qua them. Hence, the Petition is heard qua petitioner Nos. 3 and 4 only.

3.2 Learned Advocate for the petitioner would further submit that there is an unexplained delay of approximately six months in lodging the FIR. The essential ingredients necessary to attract the provisions of Sections 406 and 420 of the Indian Penal Code are conspicuously absent. The allegations levelled against the present petitioners are inherently absurd, baseless, and improbable.

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3.3 It is further submitted that Respondent No. 3 herself had handed over the passport and Election Card of her husband with a view to preventing him from travelling abroad. The said documents were subsequently returned to Respondent No. 3 upon her demand. Thus, there is no question of any dishonest misappropriation or cheating or breach of trust on the part of the present petitioners.

3.4 It is submitted that there is no material whatsoever on record to connect Accused Nos. 3 and 4 with the allegations pertaining to Sections 406 and 420 of the Indian Penal Code. Thus, the allegations levelled against the present petitioners are baseless, unfounded, and devoid of any substantive material. Eventually, it is requested to allow this Petition.

4. Per contra, Learned Advocate Ms. Mariya M Dalal and Learned Additional Public Prosecutor would submit that since a prima facie case is made out from the reading of the FIR, as well as the charge-sheet papers, this Court should not enter into a mini-trial while exercising power under Section 482 of the CrPC and thus argued to reject the present petition.

5. Heard Learned Advocates for the respective parties.

5.1 This Court has gone through the averments made in the FIR. Considering the death certificate of petitioner No. 5 namely Abdulrasid Ahmed Patel, produced by the learned Advocate for the petitioner, the petition qua the petitioner No. 5 is abated.

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5.2 As far as the allegations against Petitioner Nos. 3 and 4 are concerned, the entire investigation papers as well as the charge-sheet are conspicuously silent with regard to their involvement in the alleged offences. Even the statements recorded during the course of investigation and the recovery of the passport of the husband and the Election Card do not disclose any incriminating material against Petitioner Nos. 3 and 4. A bare perusal of the FIR, the investigation papers, and the charge-sheet clearly reveals that there are no specific allegations against Petitioner Nos. 3 and 4, thus, it clearly transpires that they have been wrongly roped into the present case. Thus, no offence under Section 406,420,504 and 114 of IPC are made out.

5.3 What has been alleged in the FIR is that all the accused persons used to visit the residence of the complainant from time to time, quarrel with her, and use abusive language. Such vague, general and omnibus allegations arising out of alleged family skirmishes, without any specific instance of intentional insult or provocation, would not, by themselves, attract the provisions of Section 504 of the IPC, in as much as, the necessary ingredients to attract Section 504 would be that there has to be intentional insult to provoke any person which likely to be cause him to breach public peace.

5.4 Thus, the necessary ingredients being (a) intentional insult, (b) the insult must be such as to give provocation to the person insulted, and (c) the accused must intend or know that such provocation would cause another to break the public peace or to commit any other offence. The intentional insult must be of such

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a degree that should provoke a person to break the public peace or to commit any other offence. The mere fact that the accused abused the complainant and quarrelled with her, by itself, is not sufficient to warrant Invocation of Section 504 of the IPC.

5.5 As far as Section 406 and 420 of IPC are concerned, in view of the judgment in the case of **Delhi Race Club (1940) Ltd. And Others v. State of Uttar Pradesh and Another**, reported in 2024(10)SCC 690 these sections cannot co-exist and as such no allegations qua these sections are attracted or found from the papers of chargesheet. Hence, no case is made out of Section 406 and 420 of IPC.

5.6 As far as the present Petitioners Nos. 3 and 4 are concerned, no overt act has been attributed to them, and their involvement is not surfacing on record from the papers of the charge-sheet. Under such circumstances, captioned Petition is required to be partly allowed.

6. Accordingly, This Petition is allowed qua Petitioner Nos. 3 and 4 only. The FIR bearing FIR No. I-21/2014 registered with B Division Police Station, Bharuch, for the offences punishable under Section 406,420,114 and 504 of the IPC, along with all consequential proceedings arising therefrom qua the petitioners No. 3 and 4, stands quashed and set aside.

7. So far as proceedings qua Petitioner Nos. 1 and 2 are concerned, the law shall take its own course and the trial Court shall proceed with the matter in accordance with law without being influenced by this order and the interim relief, if any, qua

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them is vacated.

8. Rule is made absolute to the aforesaid extent.

(P. M. RAVAL, J)

MMP

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