

GJAH010089602025



**IN THE COURT OF PRINCIPAL DISTRICT &
SESSIONS JUDGE, AHMEDABAD (RURAL)**

ORDER BELOW EXH. 1

IN

SPECIAL SESSIONS CASE NO.232 of 2025

1. This case came to be registered as Special Sessions Case in pursuant to Office Order No.1224 of 2024 dated 04.10.2024 passed by Learned Principal District & Sessions Judge, Surat. By the said order dated 04.10.2024, Learned Principal District & Sessions Judge, Surat has transferred Criminal Case No.17090 of 2020 before this Court as this court has jurisdiction to try the offences under The Security Contracts (Regulation) Act, 1956 and under The Security & Exchange Board of India Act, 1992.
2. On perusal of the record of the case, it reveals that accused persons are charged for the offences punishable U/s. 3(c), 3(1)(c), 4, 5 of The Gambling Act, Section 23(1), 23(e), 23(f), 23(g), 23(h), 23(i), 23(a), 23(f) of the Security Contracts (Regulation) Act, 1956, Section 15(h)(a) of The Security & Exchange Board of India Act, 1992 in connection with C.R. No.11210023200982 of 2020 registered with Khatodara Police Station, Surat.

On completion of investigation, Chargesheet was filed against accused persons for the offences punishable U/s. 3(c), 3(1)(c), 4, 5 of The Gambling Act, Section 23(1), 23(e), 23(f), 23(g), 23(h), 23(i), 23(a), 23(f) of the Security Contracts (Regulation) Act, 1956, Section 15(h)(a) of The Security & Exchange Board of India Act, 1992 before the Competent Court i.e. before Jurisdictional Magistrate Court, which was committed by the concerned Magistrate before the Court of Learned Principal District & Sessions Judge, Surat who further vide aforesaid office order has transferred the said case to this Court. The Chargesheet Challan would reveal that along with Section 23(1), 23(e), 23(f), 23(g), 23(h), 23(i), 23(a), 23(f) of the Security Contracts (Regulation) Act, 1956, Section 15(h)(a) of The Security & Exchange Board of India Act, 1992, accused persons are also charged for the offences punishable U/ss. 3(c), 3(1)(c), 4, 5 of The Gambling Act. Learned Principal District & Sessions Court, Surat has transferred the said Criminal Case to this special designated Court under The Security Contracts (Regulation) Act, 1956 and The Security & Exchange Board of India Act, 1992. At the outset, it is required to note that The Security Contracts (Regulation) Act, 1956 & The Security & Exchange Board of India Act, 1992 are special enactment, providing special

procedures for the offences registered under the Act. Section 26 of the Security Contracts (Regulation) Act, 1956 & Section 26(1) of The Security & Exchange Board of India Act, 1992, provides for taking cognizance of offences by the Court. Section 26 of the Security Contracts (Regulation) Act, 1956 and Section 26(1) of The Securities And Exchange Board of India reads as under;

Cognizance of offences by courts.

26. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central Government or State Government or the Securities and Exchange Board of India or a recognized stock exchange or by any person.

(2) No court inferior to that of a Court of Session shall try any offence punishable under this Act.]

Cognizance of offences by courts.

26. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations made thereunder, save on a complaint made by the Board.”

3. The Hon'ble High Court of Gujarat has considered the provisions of Section 26 of the Security Contracts (Regulation) Act, 1956 in the case of ***Patel Dharmendrakumar Madhavlal & 2 Vs. State of Gujarat in Special Criminal Application [Quashing] No. 4780 of 2014***, wherein, it is held that on plain reading of Section 26 of the Act, 1956 would suggest that no court will be able to take cognizance of any offence punishable under the Act except on a complaint made by the Central

Government or State Government or Securities & Exchange Board of India or a recognized Stock Exchange or any person. It is an admitted fact in this case that this case has arisen out of the FIR registered with Khatodara Police Station, Surat which covenanted into filing of chargesheet. The case has not initiated on the basis of the complaint as defined U/s. 2(d) of the Criminal Procedure Code. The Hon'ble High Court in its order has categorically stated that the offence is made cognizable U/s. 25 of the Act and the police can investigate the offence and the special material can be used for filing of complaint and in absence of complaint as specified U/s. 2(d) of the Criminal Procedure Code, by virtue of Section 26 of the Act, the court cannot take cognizance of any offence punishable under Security Contracts (Regulation) Act, 1956. This decision has been considered by the Hon'ble High Court of Gujarat and the proceedings have been paused by considering Section 26 of Security Contracts (Regulation) Act, 1956, which bars the court to take cognizance of the offence under the Act except on complaint filed by the Competent Authority.

4. In this connection, the orders of the Hon'ble High Court of Gujarat is required to be referred as under;

- i. Oral order dtd. 27.04.2015 passed by the Hon'ble High Court of Gujarat in Special Criminal Application [Quashing] No. 4780 of 2014 in the case of Patel Dharmendrakumar Madhavlal & 2 Vs. State of Gujarat.
 - ii. Oral order dtd. 06.09.2022 passed by the Hon'ble High Court of Gujarat in R/Special Criminal Application No. 10070 of 2016 in the case of Bhagiratsinh Rajendrasinh Solanki & 13 others Vs. State of Gujarat & 1 others.
 - iii. Oral order dtd. 26.06.2025 passed by the Hon'ble High Court of Gujarat in R/Criminal Misc. Application [For Quashing & Set Aside FIR/Order] No. 21689 of 2021 in the case of Bhavsar Himanshu @ Pintu Bharatbhai Vs. State of Gujarat and anr.
 - iv. Oral order dtd. 30.03.2026 passed by the Hon'ble High Court of Gujarat in R/Criminal Revision Application [Against Order passed by Subordinate Court] No. 26 of 2024 in the case of Rajankumar Kishorchandra Kakkad & Ors. Vs. State of Gujarat and anr.
 - v. Oral order dtd. 29.04.2026 passed by the Hon'ble High Court of Gujarat in R/Criminal Misc. Application [For Quashing & Set Aside FIR/Order] No. 4324 of 2025 with Criminal Misc. Application [For Stay] No. 1 of 2025 in R/Criminal Misc. Application No. 4324 of 2025 in the case of Sidharth Harshadbhai Padaliya Vs. State of Gujarat.
5. Mr. P. M. Trivedi, the Learned Public Prosecutor for the State has fairly submitted that the present case has arisen out of FIR and chargesheet filed by the Police before Jurisdictional Magistrate Court who committed the said case to the Learned Principal District & Sessions Court, Surat who

further transferred the case to this Hon'ble Court. He has fairly submitted that by virtue of Section 26 of Security Contracts (Regulation) Act, 1956 & Section 26(1) of The Security & Exchange Board of India Act, 1992, there is bar on the court to take cognizance of the offence unless it is filed on the basis of complaint as per Section 2(d) of the Criminal Procedure Code as held by the Hon'ble High Court of Gujarat in the case of ***Patel Dharmendrakumar Madhavlal [Supra]***. He has urged to the court that as the cognizance is barred by the Statute, the case is required to be returned back to the concerned jurisdictional court by passing an appropriate order.

6. Having considered the case law referred hereinabove and the provisions of Section 26 of Security Contracts (Regulation) Act, 1956 & Section 26(1) of The Security & Exchange Board of India Act, 1992, which specifically provides the bar to take cognizance of any offences under these acts, except on complaint made by the persons/Board as contemplated U/s. 26 of Security Contracts (Regulation) Act, 1956 & Section 26(1) of The Security & Exchange Board of India Act, 1992, and the present case has arisen out of the F.I.R. and chargesheet filed by the Investigating Officer, no court can take cognizance including this court so far as the offences under The

Security Contracts (Regulation) Act, 1956 & The Security & Exchange Board of India Act, 1992 are concerned. It is also required to note here that along with the offences under The Security Contracts (Regulation) Act, 1956 & The Security & Exchange Board of India Act, 1992, the Investigating Officer has also invoked offences under the Gambling Act against accused persons and therefore, this court finds that the matter is required to be remitted back to the concerned Court for its disposal accordingly so far as offences under the Gambling Act are concerned. The case is hereby disposed of accordingly in view of the specific bar of taking cognizance by this Court as per Section 26 of Security Contracts (Regulation) Act, 1956 and 26(1) of The Security & Exchange Board of India Act, 1992, and the case is hereby ordered to be remitted back along with the Record and Proceedings to concerned Jurisdictional Court. If any Muddamal or Passport is deposited before this Court shall be remitted along with the Record and Proceeding of this Case. Yadi be made accordingly to concern branch.

Pronounced and signed in the open court today.

Date :21/08/2026
Place:Ahmedabad

(Kamal M. Sojitra)
Principal District & Sessions Judge &
Designated Special Judge (SEBI)
Ahmedabad (Rural)
U.I.Code No.GJ01494