



**Order Below Exhibit-1**

1. Present application/complaint came to be filed by the applicant seeking order of this Court under section-156(3) of Criminal Procedure Code.
2. After recording verification of the applicant, report of the concerned police station was called for. Report came to be filed at exhibit-04.
3. Advocate for the applicant Mr.K.R.Jadeja carried out argument. He argued that whole fraud was unveiled when procedure to mutate name of Truptiben was carried out. It is stated that so called sale-agreement (sata-Khat) for applicant's land which is not genuine. It is also stated that applicant or his brother has never signed any so called sale-agreement dt.07.06.2018 notarised before Notary D.M.Parekh. He has stated that applicant or his brother has never signed any sale-agreement (Sata-Khat). He has also stated that in this case sale-agreement (sata-khat) is forged and fabricated. It is also stated that if matter is send to the police for investigation by invoking powers under section-156(3) of Cr.P.C., then truth will come out. Hence, he prayed to allow this application.

## Criminal Inquiry No.13/2022

4. Having heard Ld.Advocate for the applicant, this Court has gone through record of the application. Be it stated that, before institution of this application/complaint Special Civil Suit No.05/2022, present application came to be filed by the applicant. As per averments of the applicant himself, he came to know about sale-agreement (sata-khat) when proceedings were initiated by Truptiben to mutate her name in revenue record on basis of sale-deed no.4665/2021. This very fact was brought to the knowledge of the applicant during this revenue proceedings. Be it stated that, till special civil suit No.5/2022 came to be instituted, applicant did not initiated any proceedings on basis of this so called sale-agreement (sata-khat). It was only after institution of special civil suit no.5/2022, present application and complainant addressed to Superintendent of Police came to be filed.
5. Be it noted that, if this fact was within knowledge of the applicant since initiation of the revenue proceedings, then why no such complaint or application came to be filed by the applicant earliest. This very fact can't be ignored when this Court deciding such applications. In this case it is also required to be noted that, this Court firmly believes that institution of criminal complainant as well as present application after filing of the special civil suit no.5/2022 is nothing but counter blast on part of the applicant. Even other-wise this Court has also gone

through special civil suit no.5/2022's copy produced along-with police report. Be it stated that witnesses who had identified the applicant as well as his borther's signature and thumb impression, has filed affidavit. Whole proceedings of this application/complaint appears to be counter-blast. This Court also of the opinion that, if applicant's genuine grievance is that, he has never signed so sale-agreement (sata-khat) he has all the opportunity to prove the same by leading evidence in special civil suit no.5/2022. He can also call notary as witness in that case.

6. It is matter of surprise that after filing complaint before Superintendent of Police, same was not pressed by the applicant only for the reason that he has filed present complaint before the Court. Applicant is nowhere prevent from availing such remedy. But, contrary applicant withdrawn his right as to investigation by police officer. Now, he is asking same relief from the Court in form of an order u.s.156(3). This can't be allowed. It seems that applicant want to peruse with this application only and with police complaint filed before this Court. When there is specific allegations of the applicant that he has never signed or he has not put his thumb impression sale-agreement, this court would like to keep this matter in Court inquiry u.s.202 of Cr.P.C. Obvious reason is that, applicant himself has chosen not to carry on with police complaint filed

before Superintendent of Police. Hence, this Court firmly believes that, this is not fit case wherein powers under section-156(3) can be exercised.

7. In better interest of justice following order is passed.

**Order**

1. Present matter is kept in Court inquiry u.s.202 of Cr.P.C. Prayer of the applicant to send the matter for investigation u.s.156(3) is hereby rejected.
2. Applicant is hereby directed to file witness list before this Court on or before 19.11.2022.

Order signed & pronounced in open court today.

Dt.15.10.2022

Morbi.

(Vikram Karsanbhai Solanki)

Additional Chief Judicial Magistrate.

Morbi.

Judge Code :- GJ-01099