

Order Below Exh.69

(Application for Return of Mobile as per order under Exh.60)

1. Heard **Mr. Pradipsinh Kalyansinh Rathod, Police Sub-Inspector, Jhagadiya, GIDC Police Station, Bharuch** (hereinafter referred as “**Mr.PSI**”). Perused the record. Taken into consideration settled legal provisions, as well as facts and circumstances of the incidents taken place on and after 28.04.2025 in present case, **in respect of Mobile submitted by Mr.PSI**. As all the subsequent writings and incidents are important and relevant, it is required to note them in brief here. So that transparency, accountability and integrity of the parties can be assessed and varified.
2. Sequences of events are necessary to note. Therefore, noted in brief as under ;
 - a) On 28.04.2025, Mr.PSI was present for his deposition which is recorded at Exh.56 in C.C.No.581/2018.
 - b) Misbehaviour and misconduct of Mr.PSI in reference of Mobile with him took place in the Court room. (**at present not confirmed whose Mobile it was**) (details are noted in Rojkam and letters thereafter).
 - c) Despite his unauthorised use of Mobile in Court, misconduct and misbehaviour, Court proposed him to return his Mobile, but he refused to accept the Mobile and insisted to take back SIM only (Exh.59). Therefore, with no option, Mobile was kept in Nazir custody vide Valuable Muddamal No.8 in Valuable Muddamal Peti of the Court.
 - d) Looking to his misbehaviour and misconduct, O.W.Nos.364/2025, 365/2025 and 366/2025 of dtd.29.04.2025 were sent to different Authorities. O.W.No.367 / 2025 of dtd.29.04.2025 was sent to the President of Bar Association, Padra also.
 - e) On 30.04.2025, detailed order was passed under Exh.60, i.e. application for return of Mobile. Application at Exh.60 was allowed with certain definite conditions.
 - f) On 03.05.2025, on official e-mail of this Court, Mr.PSI sent an e-mail to this Court. E-mail was a copy of the application stating that this Court had illegally taken his Mobile and CCTV Footage of the same day must be secured. The same was

received through Post also in the Court. On the writing, no date is noted. But date is noted from e-mail. A copy of this letter was sent to different Authorities i.e.(1) The Hon'ble Principal District Judge Saheb, Vadodara, (2) Hon'ble Registrar General Saheb, Vigilance, Hon'ble the High Court of Gujarat, (3) Hon'ble the Chief Justice, Hon'ble the High Court of Gujarat, (4) Hon'ble the Chief Justice of India, Hon'ble the Supreme Court of India and (5) Legal Department, Gandhinagar.

- g) On 09.05.2025, O.W.No.232/2025 of the Deputy Superintendent of Police, DySP Office, Kothi Kacheri, Raopura, Vadodara was received in the Court office. It was informed to this Court that in reference of Preliminary Inquiry against Mr.PSI, statement of the Presiding Officer as well as Staff Members were to be recorded and permission for that was asked.
- h) On 12.05.2025, vide O.W.No.416 / 2025, this Court sent letter to the Hon'ble District Court, Vadodara for permission.
- i) On 13.05.2025, permission from the Hon'ble District Court, Vadodara was received vide O.W.No.Adm.B-4(1)/845/2025 of Hon'ble District Court, Vadodara.
- j) On 14.05.2025, this Court sent letter to the Deputy Superintendent of Police vide O.W.No.429/2025 intimating permission for recording of statement.
- k) On 16.05.2025, statement of the Presiding Officer (undersigned) was recorded by the Deputy Superintendent of Police.
- l) Thereafter, within next three days, statements of the Staff Members were also recorded by the Deputy Superintendent of Police.
- m) On 27.05.2025, when this Court was on leave, Mr.PSI appeared before Hon'ble the In-charge Court and moved an application at Exh.67. Hon'ble the In-charge Court has passed detailed order on the same day. **Observations of Hon'ble the In-charge Court are also focal.** Its detail is also noted in Rojkam of the respective date.
- n) On 02.06.2025, on official e-mail ID of the Court, Mr.PSI sent an e-mail through mail ID polstn-jha-gidc-bha@gujarat.gov.in that he is coming to Court on 05.06.2025 and on that day, Court be ready with further procedure of condition Nos. (b) and (c). Order was passed thereupon too. **Language of this letter is very significant.**

3. On 05.06.2025, Mr.PSI has given application to this Court at Exh.69. It is noted in Exh.69 that Mobile deposited in the Court is of Javedbhai **Jamadar**, Resident-Surat who is at present in Kenya (foreign). He is his friend. **Hence, has given him the Mobile for use only.** Bill, Aadhar Card and Power of Attorney are produced in xerox. Accordingly Mobile is asked.
- 3.1 Looking to the Bill (xerox), **it is issued by Z Mobile Old GF 99 Omkar Shopping Complex Ankleshwar Gujarat** (noted as in the Bill), it is in the name of Javidbhai **Jamadar**, Resident-Surat, Contact No.-9327433161. It is for I Phone 15 ProMax 350492195069237. Amount of the Bill is Rs.1,22,000/-. **Rows of SGST, CGST, IGST are blank. Without mentioning any tax amount, total amount is noted as Rs.1,22,000/-. Place of Auth. Signatory is also blank (no one has signed). Invoice No.6370 and date of purchase is 19.01.2024.** Terms in credit.
- 3.1.1 **SGST, CGST, IGST are legal necessity of any purchase or sale.** In case of such a costly Mobile, no such amount is shown is a matter of surprise. **Even GSTIN number of the shop or seller is not noted in the Bill. Thus, Bill is not legal and it does not fulfill the legal necessity. It prima-facie transpires that either Bill is fake or it is from black market. In both the conditions, it is illegal.** Though Mr.PSI has made his cross-signature on the xerox Bill, **it is required to verify the validity of the shop also and also its related inmates.**
- 3.1.2 **It is pertinent to note here that as noted above, on 27.05.2025, when the undersigned was on leave, Mr.PSI had appeared before the Hon'ble the In-charge Court and at Exh.67, he had moved a simple application to obtain the Mobile. But neither the said Bill nor the said Power of Attorney was produced by him before Hon'ble the In-charge Court. Therefore, Hon'ble the In-charge Court passed detailed order on Mr.PSI's application at Exh.67 and that order is very clear in its terms. Mr.PSI's overall conduct is also very significant in this event. The undersigned was present in the Court till 23.05.2025. 24-25/05/2025 were holidays. From 26.05.2025, the undersigned was on leave. If Mr.PSI was bona-fide enough, he had enough time to appear before the regular Court, i.e.**

the undersigned Court, anytime after 28.04.2025. But he intentionally appeared before Hon'ble the In-charge Court to receive the Mobile anyhow on 27.05.2025, i.e. approximately after one month, i.e. 28.04.2025. Moreover, if the impugned Bill is of January-2024 and the impugned Power of Attorney is of 22.05.2025, he could submit them before Hon'ble the In-charge Court also. But he has not followed such act. These conducts of Mr.PSI provides strong space for doubt.

3.2 On perusal of xerox of Power of Attorney, which is executed by **Jamdar MohamedJavid Mohamedfaruk under Section 33 Registration Act** (as noted in Power of Attorney) in favour of **Ratthod** Pradipsinh Kalyansinh, it is clear that in 13th and 14th line of 1st page of the Power of Attorney, it is **noted that he purchased the Mobile and give (as noted) it to his friend Ratthod Pradipsinh Kalyansinh to use it permanently.** In the column of signature, his name is noted as **Jamdar** MohamedJavid Mohamedfaruk, place and date is noted by ball-point pen. And place at below is left blank. Though it is Power of Attorney but it consists signature of one party only, i.e. the executant only. There is no signature of acceptor, i.e. Mr.PSI. Looking to the essential elements of a Power of Attorney executed in foreign country, and if produced in Indian Court, it has to be impounded before the Sub-Registrar. But such procedure is not followed. Mr.PSI has made his signature on all the pages of xerox Power of Attorney. By his signature only, document does not become valid and legal.

3.2.1 Xerox of Aadhar Card of the executant is also produced. It reflects his address of Surat. In pursuance of the Bill and Power of Attorney, following serious issues arise;

- a) Mr.PSI is a Police Officer whose service is under regulation of the Gujarat Civil Services Rule (hereinafter referred as "GCSR"). How can he accept such a costly **Mobile from his friend for permanent use** ?
- b) If it is given to him permanently by his friend, as per Indian Law, it is a gift. And if gift is this much costly, for that, legal procedure is required. Not only that but such gift has to be intimated to the department also (in view of the

provisions of GCSR). But it does not seem that, procedure for valid gift is followed by Mr.PSI. **His friend can give him gift but whether Mr.PSI can accept in such manner ? Probably for this reason “for use” phrases are used.**

- c) Why spellings of a name of Mr.PSI's friend are different on different places ? On some places surname is noted as **Jamadar** and on some places, it is noted as **Jamdar**.
- d) **Name noted in the Power of Attorney and Aadhar Card are different than noted in the Bill. Any person who is a resident of Surat but purchases Mobile from Ankleshwar (district where Mr.PSI serves at present) and “gives” him for “permanent use”, does not care to make his full name noted in the Bill! Name in the Bill and Power of Attorney as well as Aadhar Card are totally different. Why so ?**
- e) Surname of Mr.PSI is noted as **Ratthod** in Power of Attorney. Whether executant is not aware of real surname ?

3.3 In view of the above issues, **this Court is of the view that whether Mr.PSI was in legal possession of the Mobile in question? is not clear to this Court. Court is in dilemma of this question because of following reasons also;**

- a) Firstly, Court itself had offered Mr.PSI to return his Mobile despite of his misbehaviour and misconduct in the Court, but he insisted upon taking back SIM only. His such application is at Exh.59 in the case record of C.C.No.581/2018.
- b) If it is gift or otherwise for so-called “use only”, given by his real friend (as noted in Power of Attorney), how Mr.PSI could refuse to accept it? Or why he did not file application for return of Mobile immediately?
- c) **What about the deep sentiments of his friendship with the executant of Power of Attorney of person who paid the Bill of such a costly and lavish Mobile for Mr.PSI ?**

- d) If it was given by his real friend only, how could Mr.PSI left it in the Court, despite Court was willing and ready to return him Mobile of his possession (whether legal or illegal) ?
 - e) Level of friendship between Mr.PSI and Mr. Javidbhai **Jamadar** or Mr. **Jamdar MohamedJavid Mohamedfaruk** is also a question. Because present Mobile is very costly to give someone for permanent use.
 - f) Above questions are serious and necessary to understand prior to handing over the Mobile which in fact is not clear of whose ownership it is and whether such ownership and possession is legal or not ?
4. At the time of deciding an application at Exh.60, circumstances were different and after that so many instances have taken place in respect of the said Mobile issues. As noted above, statement of the Presiding Officer and Staff Members are recorded by the Deputy Superintendent of Police in reference of Preliminary Inquiry. Therefore, it is required to obtain view of Higher Authorities of Mr.PSI to avoid any future inconvenience for the Presiding Officer, Nazir in whose custody Mobile is kept and also the rights of original and *de-facto* owner of the Mobile. At present, it is not confirmed and clear whose Mobile, in fact, it is ?
5. **Moreover, Mr.PSI has sent copy of application to different Authorities that this Court (present Presiding Officer) has illegally taken his Mobile in the Court. If in future, any of the said Authorities ask for any kind of explanation of any nature from the Presiding Officer, such opinion shall be necessary for the Court (present Presiding Officer). Therefore, their opinion is required to be obtained prior to further order on the said application. Who is in illegal possession of the “Mobile” is a serious question? Further, as Mr.PSI is a Government Official, certain inquiries are also needed to check the authenticity and integrity.**
6. In light of above reasons. At this stage, in view of the prevailing facts and circumstances, following order is passed under Exh.69;

ORDER

1. Application at Exh.69 is kept for further order on receiving opinion from the concerned Authorities.
2. Separate letters alongwith copies of this order shall be sent to respective Authorities for opinion and further procedure including inquiry regarding authenticity of Bill, Power of Attorney and relation between Mr.PSI and Mr. Javidbhai **Jamadar** or Mr. **Jamdar MohamedJavid Mohamedfaruk**.
3. Ordered to issue notice to the shop and its owner to clear whether Mobile is sold by them and Bill is issued by them in presented form? Notice shall be served through Police Inspector, Padra.
4. Ordered to issue notice to the executant of the Power of Attorney to verify issues of Power of Attorney as well as the Bill. Notice shall be served through Police Inspector, Padra.
5. Ordered to send a letter to SGST & CGST departments for verification of the issues noted in the letter regarding their subject in view of the Bill of Mobile.
6. Applications and orders passed under Exh.60, Exh.67, O.W.No.361/2025 of 28.04.2025 and O.W.Nos.364/2025, 365/2025, 366/2025 and 367/2025 of dtd.29.04.2025 of this Court shall be treated as part of this order.

Pronounced and signed in open Court today on June 10th, 2025.

Date: 10.06.2025

(Dr. Manjudevi Shardaprasad Pande)
Additional Chief Judicial Magistrate,
Padra, Vadodara
Code No. GJ:00860