

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 1065 of 2026**

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MR. SHEETAL SHASHIKANT MEHTA & ORS.
Versus
STATE OF GUJARAT & ORS.

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Appearance:

Mrs KRUTI SHAH for MS. PRIYANSHI V TRIVEDI(17555) for the Applicant(s)
No. 1,2,3
MR DHAWAN JAYSWAL, APP for the Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE M. R. MENGDEY**Date : 27/01/2026****ORAL ORDER**

1. It is submitted that as per the relevant provisions of law, when the property of the applicant which is mortgaged, is located within the rural area, in that event, the application ought to have been made before the District Collector and not before the Chief Judicial Magistrate.

1.1 learned advocate Mrs. Kruti Shah further submits that, even there is no concept of appointing Court Commissioner either in the SARFAESI Act or in the Bharatiya Nagrik Suraksha Sanhita, 2023. She has also submitted that pursuant to the impugned order passed by the Magistrate, ordering appointment of Court Commissioner, the Court Commissioner came to be appointed, who then issued notice to the applicant, and immediately upon receipt of such notice, the applicant has approached this Court by way of filing the present application.

1.2 Learned advocate Mrs. Kruti Shah submits that there is

an error in passing the impugned order and then on the basis of the same, issuing notice to the applicant by the Court Commissioner, as the concept of Court Commissioner has always been treated as alien so far as criminal jurisprudence is concerned. The impugned order passed, and the subsequent notice pursuant thereto, are null and void and required to be quashed, and till then, are also required to be stayed from its operation.

2. Considering the aforesaid submissions, the matter requires consideration. Hence, issue Notice, making it returnable on 16.03.2026. Learned APP waives service of notice for and on behalf of the respondent State.

3. Till then, the execution, implementation and operation of the order dated 15.11.2025 passed by the learned Chief Judicial Magistrate, Gandhinagar in Criminal Misc. Application No. 3078 of 2025 is hereby stayed. Direct service is permitted.

SAKSHI MAURYA

(M. R. MENGDEY,J)