

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 1727 of 2025

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IDRISHBHAI DAUDBHAI KHORJIYA & ANR.

Versus
STATE OF GUJARAT & ANR.

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Appearance:

MR.DIPEN F CHAUDHARI(6740) for the Applicant(s) No. 1,2
MR. VINAY VISHEN, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE SANDEEP N. BHATT

Date : 29/01/2025

ORAL ORDER

1. Heard learned advocate Mr. Dipen Chaudhari for the applicants and learned APP for the respondent – State.
2. Learned advocate for the applicants has submitted that the applicant No.1 is a member of Panchayat and the applicant No.2 is serving as Deputy Sarpanch. He has further submitted that the notice is issued to the complainant for removal of the authorized construction put up by the complainant and by keeping that aspect in mind, the complainant has filed this totally frivolous complaint with a view to implicate the present applicants in the alleged offence which are registered under the provisions of the Bharatiya Nyaya Sanhita, 2023, as well as the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. He has

further submitted that the complainant is repeatedly filing such complaints against various persons and one of the complaint which is filed against another person vide C.R.No.21 of 2013 before the Palanpur Taluka Police Station, whereby, the accused persons have been acquitted from the alleged offences. He further submits that even considering the tenor of the FIR, no believable allegations are made in the complaint which constitute any offence and therefore, he has submitted that continuation of proceedings pursuant to the FIR would amount to abuse of process of law. Therefore, he prays for granting of appropriate relief in the matter.

3. Learned APP has submitted that *prima facie* on bare reading of the FIR, the offences is made out against the present applicants and now the investigation is going on and therefore, it is not proper at this stage to exercise discretion in the favour of the applicants.

4. Considering the averments made in the application as well as submissions made at the bar and considering the fact that the complaint is filed by keeping in mind the fact that notice is issued for removal of the construction as well as on bare reading of the allegations made in the complaint, the matter requires further consideration.

5. Issue **Notice**, returnable on **21.03.2025**. Learned APP waives service of notice for the respondent – State.

6. In the meantime, no coercive action shall be taken against the present applicants, however, the applicants shall cooperate with the process of investigation.

SLOCK BAROT

(SANDEEP N. BHATT,J)