

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 1850 of 2020****FOR APPROVAL AND SIGNATURE:****HONOURABLE MRS. JUSTICE M. K. THAKKER**

Approved for Reporting		
Yes	No	
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SUBHASHBHAI TRAMBAKLAL MODI

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR PRATIK B BAROT(3711) for the Applicant(s) No. 1

MR PV PATADIYA(5924) for the Respondent(s) No. 2

MR. RONAK RAVAL, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MRS. JUSTICE M. K. THAKKER

Date : 24/03/2026

ORAL JUDGMENT

1. The present application has been preferred seeking quashment of the First Information Report (FIR) being I-C.R. No. 141 of 2014 registered with Naranpura Police Station, District Ahmedabad City, dated 06.05.2014, for the offences punishable under Sections 376, 362, 342, 328, 406, 323, 506(1), and 114 of the Indian Penal Code,

as well as under Section 135(1) of the Gujarat Police Act. The applicant has further prayed for quashing of the charge-sheet filed pursuant thereto and proceedings of Sessions Case No. 218 of 2015 pending before the learned Additional Sessions Judge, City Civil and Sessions Court at Ahmedabad.

2. Respondent No. 2, who is the victim, lodged the impugned FIR alleging accusations against eleven persons, including the present applicant, who is arraigned as accused No. 1. As per the recitals of the FIR, the complainant lost her mother at the age of four years, and thereafter her father remarried. The present applicant was residing in the same vicinity as a neighbour. It is alleged that the applicant induced the complainant on the pretext of arranging her marriage with his relative and instigated her against her family members under the guise that her marriage would otherwise be solemnized in some tribal area. It is further alleged that the complainant had cleared her 12th standard examination approximately eight years prior to the date of the incident. The applicant allegedly took her to his office situated at C.G. Road, Dev Path Complex,

where, after consumption of a cold drink, she was subjected to sexual intercourse by the applicant. It is alleged that the complainant was thereafter repeatedly subjected to sexual intercourse at different places at the instance of the applicant, which continued until she attained the age of 24 years. It is further alleged that nude photographs and video clippings of the complainant were taken, and she remained under the control and influence of the applicant. The complainant's father solemnized her marriage with one Ankitkumar Ghanshyambhai Soni, however, it is alleged that due to the intervention of the applicant, the said marriage was dissolved within a period of one year. Thereafter, while the complainant was employed at various places, the applicant allegedly continued to take her to his office and subjected her to sexual intercourse. Subsequently, the complainant's second marriage was solemnized with Miteshbhai Dilipbhai Dholakiya at Surendranagar on 15.12.2012. It is alleged that the applicant threatened the complainant to give a missed call, failing which her photographs would be disclosed to her in-laws. Being under fear and insecurity, the complainant obeyed the

instructions of the applicant. On 16.01.2014, upon giving a missed call, the applicant allegedly instructed her to leave her matrimonial home after taking ornaments and cash. Accordingly, the complainant left her in-laws' house carrying ornaments and cash amounting to Rs. 17,00,000/-. It is further alleged that upon contacting the applicant thereafter, he informed her that he was in Mumbai and instructed her to return to her in-laws' house. Upon expressing her inability to do so, the applicant directed her to stay at the house of his friend, namely Manisha. However, upon reaching the said place, Manisha was not found there, and subsequently, upon telephonic communication done by Manisha's mother to Manisha, the complainant was directed to reach Gujarat Vidyapith. There, she was allegedly offered coffee by Manisha, and arrangements were made as per the instructions of the applicant for her stay for a period of two weeks. It is further alleged that Manisha then called one Kaushik Panara, and Manisha took possession of the complainant's cash, mobile phone, and SIM card. The complainant has further alleged that she was subjected to sexual exploitation by Kaushik Panara

and Jitu Mali, with the aid and assistance of other accused persons named in the FIR. On 19.04.2014, while residing at the house of one Apexa, the complainant allegedly came across a publication issued by her father and father-in-law regarding her alleged kidnapping. Thereupon, she contacted her father-in-law on the number mentioned therein. Subsequently, she was taken to Sola Police Station and thereafter to Surendranagar Police Station. As a Habeas Corpus petition had been filed, she was produced before this Court, and thereafter, custody was handed over to her husband upon an undertaking that he would withdraw the FIR lodged against the complainant for theft. In the aforesaid background and allegations, the impugned FIR came to be registered, and upon completion of the investigation, the charge-sheet has been filed.

3. Heard learned advocate Mr. Pratik Barot for the applicant and learned advocate Mr. P. V. Patadiya for respondent No. 2 and learned APP Mr. Ronak Raval for the State.
4. It is submitted by learned advocate Mr. Barot that the

story put forth by the victim is inherently improbable and lacks credibility. It is contended that, as per the version of the complainant herself, the alleged acts of exploitation by the present applicant commenced when she had completed her 12th standard and are stated to have continued till she attained the age of 24 years, which, according to the learned advocate, renders the allegations doubtful. It is further submitted that upon her recovery, when the victim was produced before the Surendranagar Police Station, her statement came to be recorded on 20.04.2014 under Section 161 of the Code of Criminal Procedure. In the said statement, no allegations of rape or sexual assault were made against the present applicant. It is contended that the said statement, being the earliest version given by the victim, deserves due weightage while adjudicating the present application. Learned advocate Mr. Barot has further submitted that the impugned FIR is an afterthought, lodged only subsequent to the husband of the victim filing an FIR alleging theft of ornaments and cash amounting to Rs. 17,00,000/-. It is contended that although the period of the alleged offence is stated to be

from 20.01.2014 to 19.04.2014, the FIR came to be lodged belatedly on 06.05.2014 without any plausible explanation for such delay. It is further submitted that during the aforesaid period, there are no allegations of sexual exploitation at the instance of the present applicant. On the contrary, as per the prosecution case itself, the victim was allegedly exploited by other persons at different places. In absence of any specific overt act or direct attribution of any criminal offence against the present applicant, continuation of the impugned proceedings would amount to an abuse of the process of law. In support of the aforesaid submissions, learned advocate Mr. Barot has placed reliance upon the judgments of the Apex Court in the cases of **Maneesha Yadav Others Vs. State of Uttar Pradesh And Another** , reported in **2024 (4) Supreme 30**; **Payal Sharma Vs. State of Punjab And Another** , reported in **2024 (Supp) AIR(SC) 939**; **Batlanki Keshav (Kesava) Kumar Anurag Vs. State of Telangana**, reported in **2025 (8) JT 115**; and **Disha Kapoor Vs. State of Uttar Pradesh**, reported in **2025 (O) AIR(SC) 2273**. On the aforesaid grounds, it is prayed that the

present application be allowed and the impugned FIR, charge-sheet, and all consequential criminal proceedings be quashed qua the present applicant.

5. Per contra, learned advocate Mr. Patadiya appearing for the complainant has submitted that the statement relied upon by the learned advocate for the applicant, having been recorded by the Police Authority under Section 161 of the Code of Criminal Procedure, is wholly inadmissible in evidence and, therefore, cannot be taken into consideration while adjudicating a petition under Section 482 of the Code of Criminal Procedure. It is further submitted that the jurisdiction under Section 482 of the Code is limited in scope and is required to be exercised only for the purpose of ascertaining whether sufficient material exists to proceed against the accused. Placing reliance upon the decision of the Apex Court in the case of **Muskan Vs. Ishaan Khan (Sataniya)** reported in **2025 (0) AIR(SC) 5458**, it is contended that this Court ought not to embark upon a mini trial at this stage. In the aforesaid backdrop, it is prayed that the present application be dismissed.

6. Learned APP Mr. Raval, in addition to the submissions advanced on behalf of the complainant, has submitted that the medical examination of the victim records a history which reiterates the version as set out in the FIR. It is further submitted that the statements of the family members, namely the father-in-law, uncle, and father of the victim, specifically indicate that the present applicant used to repeatedly contact the victim, which was also one of the reasons for the breakdown of her first marriage. It is further pointed out that, as per the result of the polygraph test, the present applicant, while undergoing the said test, responded in the affirmative to question No. R-6 regarding his presence at Mumbai on the date when the victim was allegedly abducted, as well as his prior presence at Surendranagar. On the basis of the aforesaid material, it is submitted that it cannot be said that the continuation of proceedings against the present applicant amounts to an abuse of the process of law or that no prima facie case is made out against him. In this view of the matter, it is prayed that the present application be dismissed.
7. Having considered the submissions advanced by the

learned advocates appearing for the respective parties, this Court has examined the material placed on record by the Investigating Officer. The limited question which arises for consideration is whether the allegations made in the FIR, read in conjunction with the material collected during the course of investigation, disclose a prima facie case against the present applicant or not. In order to adjudicate the said issue, This Court has referred to the decision of the Apex Court in **State of Haryana v. Bhajan Lal**, reported in **1992 Supp (1) SCC 335**, wherein the Apex Court has laid down the guidelines governing the exercise of inherent powers under Section 482 of the Code of Criminal Procedure which are reproduced hereinbelow:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and

sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(i) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(ii) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(iii) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(iv) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(v) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(vi) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious

redress for the grievance of the aggrieved party.

(vii) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

- 7.1. In order to ascertain whether the case of the present applicant falls within any of the categories enumerated in the aforesaid decision, it is necessary to examine the allegations made in the FIR and the relevant material on produced by the applicant. In this regard, particular reference is required to be made to the complaint dated 02.02.2014 lodged by the husband of the victim alleging theft against her. As per the allegations made in the complaint lodged by the husband of the victim, namely Miteshbhai, the victim had left her matrimonial home carrying cash amounting to Rs. 17,00,000/- along with gold and silver ornaments. It is further recited therein that the earlier marriage of the victim had broken down on account of the intervention of the present applicant. The said complaint also records that during the period from 10.01.2014 to 20.01.2014, the victim had made several calls to the mobile number of the present applicant, being No. 9825070789. Further, as per the

polygraph test report conducted during the course of investigation of the theft FIR, the present applicant is stated to have responded in the affirmative to questions regarding the victim's stay in a flat in his proximity, his employment with Syndicate Bank, his presence at Mumbai on the date when the victim was allegedly abducted, and his prior presence at Surendranagar. The allegations made in the present FIR with regard to sexual exploitation, coupled with the circumstances that the victim lost her mother at an early age, her father's remarriage, the applicant being a neighbour residing in close proximity, the victim being taken to the applicant's office where she was allegedly subjected to sexual intercourse, and her leaving the matrimonial home at the instance of the applicant, as well as the call records between the victim and the applicant reflected in the theft FIR, constitute material which cannot be overlooked while determining whether the present applicant has been falsely implicated.

8. Insofar as the judgment relied upon by the learned advocate for the applicant in the case of **Batlanki Keshav (Kesava) Kumar Anurag** (supra) is concerned,

the same is clearly distinguishable on facts. In the said case, the marriage between the parties could not be solemnized on account of differences in caste. In that backdrop, the Apex Court took into consideration the closure report in FIR No. 751 of 2021 placed on record, which revealed that the de facto complainant had earlier, on 23.01.2019, lodged a similar complaint at Osmania University Police Station, Hyderabad, against one Dr. Ranjit Thankappan, who was then serving as an Assistant Professor in the Department of Communication at Osmania University, alleging cheating and sexual exploitation on the pretext of a false promise of marriage. In view of such antecedents, the Hon'ble Apex Court held that the de facto complainant was in the habit of lodging such complaints and had falsely implicated the accused persons with oblique motives. Similarly, in **Suresh Garodia Vs. State of Assam** reported in **2024 (0) AIR (SC) 783**, the Apex Court exercised its inherent powers to quash proceedings in view of an inordinate delay of 34 years in lodging the FIR under Sections 376 and 506 of the Indian Penal Code. In **Disha Kapoor** (supra), the Apex Court found

that the allegations were uncorroborated by the available evidence and were contradicted by the conduct of the complainant to such an extent that the prosecution case was rendered inherently improbable for constituting offences under Sections 498A, 325, and 506 of the Indian Penal Code. However, in the present case, the factual matrix is entirely distinct. The material on record, as discussed hereinabove, does not render the allegations inherently improbable at this stage. Consequently, the aforesaid decisions would not advance the case of the present applicant.

9. It is true that, as per the statement recorded by the Police under Section 161 of the Code of Criminal Procedure during the course of investigation of the theft case, no such allegations have been made against the present applicant. However, in the considered opinion of this Court, the same by itself cannot constitute a sole ground for quashing of the FIR. At the highest, such omission may be utilized for the purpose of contradiction of the victim during the course of trial. At this stage, this Court deems it appropriate to refer to the following decisions rendered by the Apex Court:

9.1. In the case of **Pinakbhai Riddhibhai Desai Vs. State of Gujarat**, reported in **2025 (0) JX (Guj) 1020**, wherein the Apex Court laid down comprehensive principles governing the exercise of the High Court's inherent powers under Section 482 of the Code of Criminal Procedure and jurisdiction under Article 226 of the Constitution for quashing FIRs. The Court held that the police have a statutory right and duty to investigate cognizable offences, and courts should ordinarily not interfere at the stage of investigation or grant blanket orders restraining investigation. It emphasized that while considering a petition for quashing, the High Court must only examine whether the allegations in the FIR prima facie disclose a cognizable offence, without evaluating the truthfulness of the allegations or conducting a mini-trial. The Court further clarified that quashing of criminal proceedings is an exception and should be exercised sparingly and with great caution, and routine interference with investigations would amount to encroaching upon the powers of the investigating agency.

9.2. In the case of **Rocky Vs. State of Telangana**,

reported in **2025 (0) JX (SC) 1486**, wherein it is held that inherent powers of the High Court under Section 482 CrPC must be exercised sparingly and only in exceptional cases. The Apex Court emphasized that when the FIR and charge sheet disclose prima facie commission of cognizable offences, the High Court should not interfere at the pre-trial stage or conducts a mini-trial, and routine interim protections such as directions for "no coercive steps" should not be granted as they obstruct the statutory power of the police to investigate offences. The Apex Court further held that criminal proceedings should continue where the allegations are not inherently improbable and disclose the ingredients of an offence.

9.3. In the case of **Somjeet Mallick vs. State of Jharkhand**, reported in **2024 (10) SCC 527**, wherein it is held that while considering the petition for quashing under Section 482 Cr.PC, the Court must examine the allegations in the FIR and the materials collected during investigation at their face value only to determine whether a prima facie case is made out. The Court has observed that the correctness or truthfulness of the

allegations cannot be tested at the preliminary stage and if the allegations disclose dishonest conduct or a cognizable offence requires investigation, the High Court should not quash the proceedings at the threshold as doing so would obstruct a legitimate investigation.

9.4. In the case of **State Represented by the Inspector of Police vs. M.Maridoss**, reported in **2023(4) SCC 338**, wherein it is held that while exercising powers under Section 482 of the Code of Criminal Procedure, the High Court should not conduct a "mini-trial" or evaluate the evidence in detail at the stage of quashing an FIR. The Court observed that the Madras High Court had prematurely quashed criminal proceedings under Sections 124A, 153A, 504, 505(1)(b), and 505(2) of the Indian Penal Code within four days of the FIR being lodged, without giving investigating agency the reasonable time to investigate.

9.5. In the case of **M/s. Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra**, reported in **(2021) (0) AIJEL-SC 67272**, wherein it is held that interim protection should not be routinely granted in quashing

petitions as it interferes with police investigation of cognizable offences.

9.6. In the case of **Dineshbhai Chandubhai Patel Vs. State of Gujarat**, reported in **2018 (3) SCC 104**, wherein it is held that while exercising powers under Section 482 CrPC, the High Court must not interfere with the investigation if the FIR discloses the prima facie commission of a cognizable offence. The Court observed that the High Court cannot act like an investigating or appellate authority by examining disputed facts or evidence at the preliminary stage, and once a prima facie offence is disclosed, it should allow the investigating agency to carry out the investigation in accordance with law rather than passing orders that impede or stall the statutory powers of the police.

9.7. In the case of **State of Andhra Pradesh Vs. Vangaveeti Nagaiah**, reported in **(2009) 12 SCC 466**, wherein it is held that while considering an application for discharge under Section 227 of the Code of Criminal Procedure, the court is only required to examine whether a prima facie case exists against the accused

based on the material placed by the prosecution, and it cannot conduct a detailed evaluation of evidence as if holding a trial. The Court emphasized that at the stage of framing charges; the judge should not meticulously analyze the reliability or sufficiency of evidence but should see whether the materials on record raise a strong suspicion that the accused has committed the offence. If such suspicion exists, the matter must proceed to trial. Accordingly, the Supreme Court set aside the High Court's order that had interfered with the trial court's decision and reiterated that detailed appreciation of evidence is impermissible at the stage of discharge or framing of charge.

10. It is a settled position of law that the inherent powers under Section 482 of the Code of Criminal Procedure are required to be exercised with great circumspection, in rare and exceptional cases. Such powers are to be exercised sparingly, with due care and caution, and only when the exercise thereof is justified by the parameters specifically laid down under the provision. In the aforesaid backdrop, it cannot be said that the allegations levelled against the present applicant are patently

frivolous, vexatious, or inherently improbable so as to not disclose the commission of any offence.

11. In view of the foregoing discussion, the present application fails and is accordingly dismissed.

12. Rule is discharged.

NIVYA A. NAIR

(M. K. THAKKER,J)