

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION NO. 1409 of 2022

VINUBHAI ICHHABHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR ABDULLAH M POPATIA(12172) for the Applicant(s) No. 1,2

MR SALIM M SAIYED(5172) for the Applicant(s) No. 1,2

for the Respondent(s) No. 2

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

CORAM:HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI

Date : 03/03/2022

ORAL ORDER

Learned advocate for the petitioners submitted that impugned FIR is nothing but gross abuse of process of the Court, wherein, the present petitioners have been falsely implicated. It is pointed out from the record that petitioners are not named in the FIR in column no.7. However, subsequently present petitioners have been implicated. It is further submitted that respondent No.2 - original complainant is not the owner of the land in question and the original accused - Rashikbhai Nagjibhai Patel is the owner of the land in question. Applicant No.2 - power of attorney holder of accused No.1 - Rashikbhai Nagjibhai Patel has executed sale deed in favour of the applicant No.1 and thereby they have not committed any illegality as alleged by the respondent No.2 - complainant. Therefore, the ingredients of the

alleged offence punishable under Section 420 of IPC are, *prima facie*, not made out.

In view of the aforesaid submissions, issue notice to the respondents returnable on 12.07.2022. Learned APP waives service of notice for the respondent - State. Till the next date of hearing, it is open for the investigating agency to proceed further with the investigation, however, charge-sheet shall not be filed against the present petitioners without prior permission of this Court.

Direct service permitted.

(VIPUL M. PANCHOLI, J)

LAVKUMAR J JANI