

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION NO. 3240 of 2021**

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BEENABEN D/O LATE JAYANTIBHAI KUNDALIYA W/O DEEPAK NARULA

Versus

STATE OF GUJARAT

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Appearance:

MR ANAND B GOGIA(5849) for the Applicant(s) No. 1,2,3,4,5

MR BB GOGIA(5851) for the Applicant(s) No. 1,2,3,4,5

MR RB GOGIA(5850) for the Applicant(s) No. 1,2,3,4,5

for the Respondent(s) No. 2,3,4,5

MR MANAN MEHTA, APP for the Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE B.N. KARIA

Date : 17/02/2021

ORAL ORDER

By way of present application, applicants have prayed to quash and set aside the complaints dated 20.01.2016 and 02.03.2020 registered with DCB Police Station at Annexure-A for the offence punishable under Section 406, 408, 420, 467, 468 and 114 of the Indian Penal Code and have further prayed to stay further proceedings thereto.

Heard learned advocate for applicants.

It is submitted by learned advocate for applicants that in the earlier round of litigation, respondent no.5 had filed two complaints dated 29.09.2011 as well as 09.09.2013 before the

Police Commissioner, Rajkot. That after investigation in both the complaints, the police found that the dispute is of civil nature and filed closer report dated 08.05.2013 as well as 20.05.2017. That in the earlier third round of litigation, a complaint dated 20.01.2016 was filed by the police authorities for the same transaction with same contentions. That now the police has started investigation after passing of five years and the said transaction has taken place with one Jayantibhai Kundaliya. That instead of raising any civil dispute, respondent no.5 has adopted a short-cut and re-filed complaint dated 09.09.2013 and just to harass present applicant, the third complaint is filed on the very set of facts on which the earlier two complaints were based upon. That respondent no.5, hand in glove with respondent no.4 i.e. Assistant Town Planner of Municipal Corporation, have abused process of law and Government machinery.

Issue requires consideration.

Hence, **Rule**, returnable on 17.03.2021. Learned APP waives service of notice of Rule for and on behalf of respondent nos.1 and 2.

No coercive steps shall be taken against present applicants till the next date of hearing.

The Investigating Officer may continue the investigation and applicants shall cooperate the Investigating Officer in the investigation.

Registry is directed to send a copy of this order to the concerned Police Station through fax or email forthwith.

(B.N. KARIA, J)

rakesh/