



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**  
**R/SPECIAL CRIMINAL APPLICATION NO. 1811 of 2019**

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HAJI ABDULRAHIM BAPUBHAI MOGAL

Versus

STATE OF GUJARAT & 1 other(s)

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Appearance:

MS. SHIVANGI M RANA(7053) for the Applicant(s) No. 1

MR OMKAR C DAVE(2003) for the Respondent(s) No. 3

PUBLIC PROSECUTOR(2) for the Respondent(s) No. 1

UNSERVED WANT OF TIM(31) for the Respondent(s) No. 2

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CORAM: **HONOURABLE MS JUSTICE SONIA GOKANI**

**Date : 05/04/2019**

**ORAL ORDER**

1. This Court has passed following order on 18.03.2019:

*"1. The petitioner is aggrieved by non-registration of the First Information Report, is before this Court.*

*2. On earlier occasion, petitioner has approached this Court by preferring Special Criminal Application No. 8996 of 2018, this Court (Hon'ble Mr. Justice A.Y. Kogje) passed the following order:*

*"1. RULE. Mr. K.P. Raval, learned Additional Public Prosecutor waives service of Rule on behalf of the respondent.*

*2. By way of this petition under Article 226 of the Constitution of India, the petitioner has a grievance to redress as regards to the inaction on the part of the police authorities in not registering the FIR pursuant to the application dated 29.12.2016 given by the petitioner in writing to the*



Police authority.

3. It is submitted that though the petitioner has produced documentary evidences along with the application to the Police Inspector, Sachin Police Station, Sachin, Surat which prima facie proves the alleged offences against the accused person/s, yet no action has been taken in this regard and no First Information Report is registered.

4. The Police Inspector, Sachin Police Station, Sachin, Surat shall look into the application dated 29.12.2016 submitted by the petitioner and take a decision whether the same discloses commission of any cognizable offence or not. Police authority shall follow the directions issued by Hon'ble Apex Court in the case of Lalita Kumari V/s. Government of Uttar Pradesh and Others reported in (2014) 2 SCC 1 as well as in the case of State of Telangana V/s. Habib Abdullah Jeelani and Others reported in (2017) 2 SCC 779.

5. After perusal of the complaint and inquiry, if any, the Police Inspector, Sachin Police Station, Sachin, Surat is of the view that the same discloses commission of a cognizable offence, then, in such circumstances, the First Information Report be registered forthwith. However, if the Police Inspector, Sachin Police Station, Sachin, Surat is of the view that no case is made out for the registration of the FIR, then, in such circumstances, the petitioner be informed in writing about the same by giving reasons in brief within a period of fortnight from today.

6. Rule is made absolute to the



*aforesaid extent. It is hereby made clear that this Court has not gone into the merits of the matter.*

*Direct service is permitted."*

*3. Thereafter, police since has not replied to the petitioner, petitioner is therefore before this Court. Let the Investigating Officer file an affidavit as to what steps have been taken in the compliance of the order of this Court and why he has not complied with the directions of this Court.*

*Let the matter appear on 25<sup>th</sup> March, 2019 at 02:30 p.m.*

*Copy of this order be provided to the learned Additional Public Prosecutor for onward communication."*

2. The order passed by this Court on 25.03.2019 reads as under:

*"1. Draft amendment is permitted to be carried out, forthwith.*

*2. Today, affidavit-in-the Police Inspector, Sachin Police Station, Surat City, pursuant to the order passed by this Court, wherein, he has stated that parties since were negotiating, there was no reason for police to register the First Information Report. The details have been provided that as to how the joint meeting held with both the sides and what steps have been taken to implement the Court's direction.*

*3. Today, learned advocate Mr. Omkar*



*Dave has sought permission to file his appearance on behalf of the proposed accused - newly joined respondent no.3.*

*4. Learned advocate Mr. Sunit Shah appearing with learned advocate Mr. Omkar Dave for applicants gave four proposals /offers. According to him, any of the proposals, if acceptable to the petitioner, the builder - proposed accused is ready to abide by the same.*

*5. Learned advocate Ms. Shivangi Rana ensures to convey all the four proposals / offers to the petitioner and workout the modality in amicable way.*

*Let the matter appear on 01<sup>st</sup> April, 2019."*

3. Then, on 01.04.2019, as the parties had arrived at the settlement, the matter had been posted for hearing today, where, an undertaking has been produced stating, therein, that the payment shall be made to the petitioner by way of four cheques, which have been issued in favour of the petitioner, the details, whereof, are as under:

| Date     | Name of Bank   | Branch                        | Cheque Number | Amount (in Rupees) |
|----------|----------------|-------------------------------|---------------|--------------------|
| 20.04.19 | Bank of Baroda | National Plaza Complex, Surat | 000011'       | Rs.2,00,000/-      |



|           |                |                               |         |               |
|-----------|----------------|-------------------------------|---------|---------------|
| 05.05.19' | Bank of Baroda | National Plaza Complex, Surat | 000012' | Rs.2,50,000/- |
| 20.05.19  | Bank of Baroda | National Plaza Complex, Surat | 000013' | Rs.2,50,000/- |
| 30.05.19  | Bank of Baroda | National Plaza Complex, Surat | 000014' | Rs.2,50,000/- |

4. The consent terms are permitted to be brought on record.

5. With the parties having arrived at the compromise, no cause survives.

6. Resultantly, this petition stands **DISPOSED OFF**, accordingly. However, in the event of any dishonour of cheque issued by the proposed accused or any other difficulty, the petitioner shall be at **LIBERTY** to reiterate her request and to revive this petition.

(SONIA GOKANI, J)

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