

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR CONSENT QUASHING) NO. 4594
of 2026**

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BHIMJIBHAI SHIVJIBHAI DHARDA (BHIMJIBHAI SHIVJIBHAI CAHRAN) &
ORS.
Versus
STATE OF GUJARAT & ANR.

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Appearance:
MR CHIRAG B AYDI(13146) for the Applicant(s) No. 1,2,3,4
MR MANAN MAHETA, LD.ADDL. PUBLIC PROSECUTOR for the
Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE VIMAL K. VYAS**Date : 16/03/2026****ORAL JUDGMENT**

1. Learned advocate Mr.G.K.Gadhavi submits that he has instructions to appear on behalf of the respondent no.2 – original complainant. He is permitted to file his appearance. Registry shall accept his vakalatnama.

2. RULE returnable forthwith. Learned APP Mr.Manan Maheta waives service of notice of rule for and on behalf of the respondent No.1 – State and learned advocate Mr.G.K.Gadhavi waives service of notice of rule for and on behalf of the respondent no.2 – original complainant.

3. By way of preferring the present application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicants-accused, who are the daughter-in-law

of the deceased and her family members, seek to invoke the inherent powers of this Court, praying to quash and set-aside the First Information Report being C.R.No.11205039260071 of 2026 registered with the Madhapar Police Station, Kachchh West (Bhuj), for the offences punishable under Sections 108 and 54 of the Bharatiya Nyaya Sanhita, 2023, as well as all other consequential proceedings arising pursuant thereto.

4. Initially, the present application was filed for consent quashing, however, considering the gravity and seriousness of the offence, the matter has been heard on merits.

5. Heard learned advocate Mr.Chirag Aydi appearing for the applicants; learned APP Mr.Manan Maheta appearing for the respondent No.1 – State and learned advocate Mr.G.K.Gadhavi appearing for the respondent no.2 – original complainant.

6. Today, when the matter is called out, the complainant (i.e. the son of the deceased) is personally present before this Court and has produced his identity proof, which is ordered to be taken on record. He has also filed an affidavit, which is annexed as Annexure “B” to the application. In the affidavit, the complainant has categorically stated that with the intervention of the friends, family members and

community people, the dispute between him and the applicants-accused has been amicably resolved and there is no ill-will or any grievance amongst them.

7. It is the case of the prosecution that the marriage between the complainant and the applicant no.3 was solemnized two years before the alleged incident, and after her marriage, the applicant no.3 was residing with her husband (i.e. the complainant) in a joint family. It is alleged that the deceased (i.e. the father of the complainant and father-in-law of the applicant no.3) had posted a suicide note to the office of the Superintendent of Police, Kachchh (East), Gandhidham, before committing suicide, wherein the deceased has specifically stated that due to the mental torture exerted upon him by her daughter-in-law and her family members, he is going to commit suicide. It is, therefore, alleged that out of distress and disappointment, the deceased took his own life by consuming acid.

8. At the outset, learned advocate Mr.Chirag Aydi appearing for the applicants-accused has submitted that the impugned FIR was lodged by the complainant on account of doubt, misunderstanding and misconception, and now the complainant has settled the matter with the applicants and has also filed an affidavit dated 16.02.2026, *inter alia*, stating that with the intervention of the family

members, common friends and well-wishers, the dispute has been resolved with the applicants so as to maintain peace, harmony, healthy personal relationship in future and for the betterment and upliftment of the family as he and the applicant no.3 have been blessed with a baby boy who is only 08 months' old. The complainant has further stated that he does not want to prosecute further with the impugned FIR as well as other proceedings against the applicants-accused.

9. Learned advocate Mr.Aydi has submitted that the impugned FIR lodged by the complainant is palpably false and there is not an iota of evidence to implicate the present applicants-accused with the alleged offence. He has further submitted that the prosecution failed to explain the crucial events immediately preceding the incident on the fateful day. Learned advocate has submitted that the proximity between the alleged act of instigation by the applicants-accused and the commission of suicide by the deceased has not been proved. It is further submitted that the complainant has made vague, omnibus and general allegations against the applicants-accused, and the FIR, even if it is considered at its face value, the same could not even establish the offence as alleged in the FIR.

10. Learned advocate Mr.Aydi has, therefore, submitted

that considering the aforesaid as well as the fact that since the dispute has been amicably resolved between the parties, the application may be allowed and the impugned FIR may be quashed and set-aside.

11. Learned advocate Mr.G.K.Gadhavi appearing for the complainant (i.e. the son of the deceased) has submitted that since the matter has been settled between the parties and there is no ill-will or grievance amongst them, the present application may be allowed and the impugned FIR may be quashed and set-aside.

12. The complainant, who is personally present in the Court, has categorically stated that he has no objection if the application is allowed and the impugned FIR is quashed and set aside. The relevant paragraphs of the affidavit filed by the complainant, read thus :

“1. I am the respondent no.2-orig. complainant in the memo of petition and I am fully conversant with the facts and circumstances of the case and I am duly competent to file this affidavit.

2. I say that I have gone through the memo of petition and the facts and grounds stated in the memo of petition are not disputed by me. At the outset I say and submit that the disputes and grievances of both the sides have been amicably settled and I do not wish to prosecute the petitioners any further and their for I have no objection if the Hon'ble may be

pleased to release the petitioner with respect to the F.I.R. being C.R. No. 11205039260071 of 2026 registered at Madhapar Police Station, District: Kachchh West (Bhuj) for the offences punishable u/s. 108, 54 of the Bharatiya Nyaya Sanhita, 2023.

3. I say that there was no enmity between myself and the present petitioners. I say that I have settled the dispute with them and I do not wish to rather prosecute the FIR against petitioners because both family members realized their mistake. I submit that during the wedlock with the petitioner no. 3 we have blessed with one baby boy Aarav and at present he is only 8 months old and for the better welfare and upliftment of the family I have no objection if this Hon'ble Court passes an order and quashing the FIR as well as other proceeding out of it.

4. I say that after registration of the impugned FIR, a meeting took place between my family and members in presence of common friends and well wishers and the misunderstanding between us got cleared. Accordingly, the matter has been resolved and an amicable settlement has been arrived at between the parties so as to maintain harmony, peaceful and healthy personal relationships in future. In view of amicable settlement, I have also agreed to support the petitioners in respect of prosecution initiated against the petitioners on the basis of impugned FIR and as per the mutual understanding and settlement, I have agreed to give consent for quashing of impugned FIR and other proceedings, Thus, I do not want to prosecute the impugned FIR and other proceedings against the all petitioner.

5. In the facts and circumstances as narrated above, I at my free will, wish and desire am stating on oath that I do not wish to prosecute the criminal proceedings with petitioners as the dispute between us has been amicably settled. I state that F.I.R. being

C.R. No. 11205039260071 of 2026 registered at Madhapar Police Station, District: Kachchh West (Bhuj) for the offences punishable u/s. 108, 54 of the Bharatiya Nyaya Sanhita, 2023 kindly be quashed.

અમો ફરિયાદી અને આ કામના અરજદારો વચ્ચે કોઈ પણ જાતની ધમકી, દબાણ વગર અને અમારા મુક્ત સમંતિથી રાજી-ખુશી સમાધાન થઈ ગયેલ હોવાથી બને પરિવારના પક્ષકારો તેમની ભૂલ સમજી ગયેલ છે અમો દ્વારા સમાધાન અમારા મરજીથી, રાજી-ખુશી થી મુક્ત સમંતિથી કરેલ છે અને આ કામના અરજદાર વિરુદ્ધ ઉપર જણાવેલ એફ.આઈ.આર તેમજ તે લાગત તમામ કાર્યવાહી નામદાર હાઈકોર્ટ દ્વારા રદ કરવામાં આવે તો તેમાં અમોને કોઈ વાંધો કે તકરાર નથી કે ભવિષ્યમાં વાંધો કે તકરાર લઈશું નહિ.”

13. Learned APP Mr.Manan Maheta appearing for the respondent – State has vehemently opposed the present application and has submitted that having regard to the gravamen and seriousness of the offence, the application may not be entertained and the same may be rejected.

14. A bare perusal of the complaint indicates that after marriage of the complainant with the applicant no.3, the deceased resided with them in a joint family. Furthermore, it appears from the material on record that there is no witness to the incident. It is alleged that due to the torture by the applicants-accused, the deceased had committed suicide. It also appears that on the strength of the complaint filed by the son of the deceased, the investigation was carried out, and during the course of the inquiry, the police had recorded the statement of the complainant as well as his family members, who were admittedly not

present at the place where the incident had occurred. Admittedly, there is a suicide note on record.

15. This Court is conscious of the fact that in such type of serious offences, the FIR cannot be quashed only on the basis of the consent and the court has to consider the merits of the case and to form an opinion, whether the ingredients of Section 107 are attracted or not ? In other words, by examining the materials on record, the court would require to form an opinion, whether, there is a *prima facie* case against the present applicants-accused, which requires a full-fledged trial.

16. It is settled that to attract Section 107 of the IPC, the accused must have *mens rea* to instigate the deceased to commit suicide. The act of instigation must be of such intensity that it is intended to push the deceased to such a position under which he has no choice but to commit suicide. Such instigation must be in close proximity to the act of committing suicide. In the present case, it appears that there is no evidence on record to suggest as to what had happened immediately preceding the incident. It also appears that there is no reference to any specific incident and the allegations made by the complainant are general in nature. Even, considering the case of the prosecution on a demurrer and at its highest, the Court does not find the essential ingredients of Section 107 of the Indian Penal

Code are being attracted. Thus, it appears from the aforesaid that sending the applicants-accused to face the trial would be nothing but a futile exercise and would amount to abuse of process of law.

17. At this juncture, I may refer to the decision of the Supreme Court in case of **Shenbagavalli and others vs. Inspector of Police, Kancheepuram District and another**, reported in 2025 INSC 607, wherein the Supreme Court held as under :-

“15. Section 306 requires a person having committed suicide as a first requirement but for abetment of such commission, which is essential, the ingredients must be found in Section 107 IPC. The requirement of abetment under Section 107 IPC is instigation, secondly engagement by himself or with other person in any conspiracy for doing such thing or act or a legal omission in pursuance to that conspiracy and thirdly intentionally aids by any act or an illegal omission of doing that thing. In large number of judgments of this Court it stands established that the essential ingredients of the offense under Section 306 IPC are (i) the abetment; (ii) intention of the accused to aid and instigate or abet the deceased to commit suicide. Merely because the act of an accused is highly insulting to the deceased by using abusive language would not by itself constitute abetment of suicide. There should be evidence suggesting that the accused intended by such act to instigate the deceased to commit suicide. [M.Arjunan vs. State represented by its Inspector of Police, (2019) 3 SCC 315]

16. Similarly, in the case of **Ude Singh and Others vs. State of Haryana**, (2019) 17 SCC 301 it has been observed in para 16 as follows :-

“16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act(s) of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the court would be looking for cogent and convincing proof of the act(s) of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

16.1. For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of the accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit

suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four corners of Section 306 IPC. If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased.

17. These being the essential ingredients for the offence of abetment to suicide, and the said ingredients having not been fulfilled, the further continuation of proceedings would not be sustainable. The other evidence such as statements, sought to be relied upon by the prosecution, apart from the suicide note, does not in any manner advance the case of the prosecution, particularly when the foundation of the case is the suicide note itself. With the very element of abetment

conspicuously absent from the allegations made in the FIR which is primarily based upon the suicide note, the essential requirements for constituting an offence under Section 306 IPC remain unfulfilled. As such, the continuation of the criminal proceedings initiated against the Appellants would amount to an abuse of the process of law. The Court cannot permit such proceedings to degenerate into instruments of harassment or unjust prosecution.

*18. The Court would not hesitate to exercise its extraordinary powers which are inherent to quash such proceedings when it comes to fore, and the court is satisfied that allowing the proceedings to continue would be an abuse of process of Court or that the ends of the justice require that the proceedings ought to be quashed. Reference in this regard may be made to the Judgment of this Court in **Geo Varghese vs. State of Rajasthan and Another**, (2021) 19 SCC 144.”*

18. This Court is quite conscious of the fact that the power under Section 482 of the Code of Criminal Procedure, 1973 (corresponding Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023), is extraordinary, and it should be used sparingly, as the exercise of such power would scuttle the FIR at the threshold. But, if the FIR fails to make out essential ingredients of the offence, the power should be exercised. Upshot of the above discussion, the present application deserves consideration.

19. In the result, the present application is allowed. The First Information Report being C.R.No.11205039260071 of

2026 registered with the Madhapar Police Station, Kachchh West (Bhuj), for the offences punishable under Sections 108 and 54 of the Bharatiya Nyaya Sanhita, 2023, as well as all other consequential proceedings arising pursuant thereto, are hereby ordered to be quashed and set-aside qua the present applicants.

20. Rule made absolute. Direct service is permitted.

(VIMAL K. VYAS, J)

DIPTI PATEL

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: DIPTIBEN PIYUSH PATEL(HC00191), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 20/03/2026 12:02:07