

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 5227 of 2021**

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KISHORBHAI RANMALBHAI GODHANIYA & ANR.

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR DEVDIP BRAHMBHATT(3490) for the Applicant(s) No. 1,2

PRANAY V SHAH(8828) for the Respondent(s) No. 2

MR HK PATEL, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 02/07/2024

ORAL ORDER

1. By way of this application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C."), the applicant has prayed to quash and set aside the complaint being **FIR No.11192015210030 of 2021 registered with Changodar Police Station, Ahmedabad**, for the offences under Sections 341 and 114 of the IPC and all the consequential proceedings arising therefrom.

2. Heard learned advocate Mr.Devdip Brahmbhatt for the applicants, learned APP Mr. H.K. Patel for the respondent-State and learned advocate Mr.Pranay B. Shah for the respondent No.2.

3. It appears that by putting the container the accused-company has accepted the way and abetted the offence. In this regard, Civil Proceeding in the Sanand Civil Court came to be filed and which came to be dismissed, against that, an appeal was

preferred and wherein injunction application below Exh.5 came to be filed and which came to be dismissed. Against that, Appeal from Order was filed, which also came to be dismissed for want of prosecution. Further, It is submitted that as against that, restoration application is filed, which is pending. Be that as it may, *prima facie*, perusing the record, it appears that to invoke the provisions of 341 of Indian Penal Code, 1860, wrongful restraintment and that too obstructing in the private way for that exception of Section 339 of IPC is required to be considered. Keeping in mind the said explicit provisions of law, the present application deserves consideration.

5. **Rule** returnable on 12.08.2024. Learned APP waives service of notice of rule on behalf of respondent-State and learned advocate Mr.Shah waives for respondent No.2.

6. Meanwhile, there shall be ad-interim relief in terms of para 7(B) till the next date of hearing.

Direct service is permitted.

KUMAR ALOK

(HASMUKH D. SUTHAR,J)