

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 6573 of
2025**

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KETAN KANTILAL SHETH
Versus
STATE OF GUJARAT & ANR.

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Appearance:

MR. PARTH H BHATT(6381) for the Applicant(s) No. 1
MR MANAN MEHTA, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI**Date : 07/05/2025****ORAL ORDER**

Learned advocate for the petitioner submits that petitioner herein is original accused in the proceedings instituted by the respondent No. 2 under Section 138 read with Section 141 of the Negotiable Instruments Act. She further submits that in fact as per the case of the complainant a cheque dated 16.04.2002 issued by the Directors of the accused No.1 firm – Home Trade Limited in favour of the complainant was dishonoured and bounced due to insufficient fund. She further submits that it is an admitted position of fact that petitioner herein has not received any notice which was issued by the complainant under the provisions of the Negotiable Instruments Act. She further submits that in fact it is the specific case of the petitioner that he has

already tendered resignation on 15.05.2001 and his resignation was accepted by the Board. She further submits that she has placed on record a copy of the Board Resolution dated 15.05.2001 and Form No.32 from the Registrar of Companies and if this Hon'ble Court would make cursory glance upon said documents, in that event, it would have been found out that resignation of the applicant was accepted on 15.05.2001 and therefore whatever transactions took place after the resignation of the petitioner, he would not be held liable. She further submits that in fact at the time of registration of the complaint, complainant has made averments in the memo of the complaint that petitioner herein is actively associated with day to day affairs of the accused No.1 firm but in fact on the date of issuance of cheque in question, the petitioner had already resigned as a Director of the said firm. She further submits that in fact the said complaint is registered in the year 2002 but due to change of territorial jurisdiction, the matter was transferred to the concerned Court at Bombay and thereafter once again it was transferred to learned Trial Court and in the year 2018 summons came to be issued against the petitioner. As soon as petitioner came to know about issuance of summons, immediately he approached before this Court. She has also put reliance upon the decision of the Hon'ble Apex Court in the case of ***Aneeta Hada v. M/S. Godfather Travels & Tours Pvt.***

Ltd., reported in **(2012) 5 SCC 661** in support of her submissions. She, therefore, submits that considering the aforesaid overall facts of the present case, the petitioner may be protected.

In view of the aforesaid submissions, issue notice to the respondents making it returnable on 15.07.2025. Learned APP waives service of notice for respondent No. 1 - State.

In the meantime, ad-interim relief in terms of para 21(D) is granted. Direct service permitted.

To be heard with Special Criminal Application No.4539 of 2025 and allied matter.

(DIVYESH A. JOSHI,J)

LAVKUMAR J JANI

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: LAVKUMAR JAYANTBHAI JANI(HC00210), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 07/05/2025 14:42:21