

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/SPECIAL CRIMINAL APPLICATION NO.4617 of 2025  
(QUASHING)**

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**ANSUYA LOTANBHAI MAHALE & ORS.**

**Versus**

**STATE OF GUJARAT & ANR.**

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**Appearance:**

MR PRIT U SHAH(11054) for the Applicant(s) No. 1,2,3

MS NIDHI M SHETH(11043) for the Applicant(s) No. 1,2,3

MR ROHAN SHAH APP for the Respondent(s) No. 1

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**CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI**

**Date : 04/04/2025**

**ORAL ORDER**

Learned advocate for the applicants has taken this Court to the facts of the case and submitted that the applicants and the respondent no.2 had entered into an agreement for the construction of a building and pursuant thereto, the respondent no.2 had started construction work but because of the dispute cropped up between the parties, the respondent no.2 had left the said work and, thereafter, the applicants have carried out further construction and in the interregnum period, the applicants have paid around Rs.22,00,000/- to the respondent no.2 and the said fact was admitted by the respondent no.2 when the exchange of notices had taken place between the parties. Learned advocate submitted that despite above facts, respondent no.2 filed an application in the form of complaint, however on the basis of the material collected by the concerned

Investigating Officer during preliminary inquiry, it is found that the dispute between the parties is of civil nature and for the recovery of the amount, the respondent no.2 may available appropriate recourse. Learned advocate, however, submitted that despite the said fact, the impugned FIR has been lodged. Learned advocate has placed reliance upon the decision of the Hon'ble Supreme Court in case of **Delhi Race Club (1940) Ltd. & Ors. Vs. State of Uttar Pradesh & Anr.,** reported in **(2024) 10 SCC 690** and submitted that the case of the applicants is squarely covered by the said decision, therefore, the prosecution launched against the applicants may be quashed and set aside.

In view of the above submissions canvassed by learned advocate for the applicants, the matter requires consideration.

Hence, issue **Notice** upon the respondents returnable on **22<sup>nd</sup> July, 2025.**

Learned APP waives service of notice for respondent – State of Gujarat.

In the meantime, ad-interim relief in terms of Para No.18(B).

**(DIVYESH A. JOSHI, J.)**

Gautam