

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 7439 of 2026**

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MUKESHBHAI ASHOKBHAI SUKHANI

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MS RIYA D DANI(13823) for the Applicant(s) No. 1

PUBLIC PROSECUTOR for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI

Date : 21/04/2026

ORAL ORDER

1. Heard learned senior advocate Mr. H.S. Tolia assisted by learned advocate Ms. Riya Dani appearing on behalf of the applicant.
2. Learned senior advocate Mr. H.S. Tolia submits that pursuant to the registration of the FIR, investigation was commenced and on conclusion of the same, the concerned Investigating officer has submitted the charge-sheet before the Competent Court. He submitted that, after submission

of charge-sheet whereas a discharge application was preferred by the accused before the concerned Court, however, the said application was not entertained therefore, being aggrieved and dissatisfied with the said decision, a revision application has been preferred before this Court wherein, however the said revision application has been withdrawn with liberty to file quashing petition, therefore, the present quashing petition has been filed.

3. Learned senior advocate Mr. H.S. Tolia submits that in fact, in the recent past, in the case of ***Mukesh & Ors. Versus the State of Uttar Pradesh & Ors.***, Hon'ble Apex Court has stated that the scope of quashing is wider than the rights of the parties lying in discharge application, therefore, considering the said principle of law propounded in the said decisions, liberty was reserved in favour of the applicant to approach this Court by filing quashing petition.

4. Learned senior advocate Mr. Tolia submits that so far

as the factual aspects of the present matter is concerned, it is a specific case of the prosecution and the complainant that the present applicant had come in contact with the complainant through marriage functions and then after, relationship was developed between them which ultimately culminated into love affair. He submitted that the said relationship continued for a certain period of time and then, they both informed their family members and ultimately, both the families were agreed to accept the said relationship and then after, in presence of the relatives of both the family members, they used to meet each other, then after their engagement ceremony has been organized, the date of marriage was fixed and wedding cards were printed. At that relevant point of time, a dispute has been arisen between the mother of the applicant and the complainant, which escalated and ultimately, the applicant decided not to continue with the said relationship by canceling the said relationship and therefore, the present

FIR was registered.

5. Learned senior advocate Mr. Tolia submits that infact, at the initial point of time, an application in the form of complaint had been given by the complainant's mother before Sardarnagar Police Station and pursuant thereto, the statement of the complainant has been recorded by the police officer of Sardarnagar Police Station, copies of all those statements are also placed on record along with the memo of the petition. He submitted that, Hon'ble Court would make cursory glance upon the contents of the said statements, in that event, it would be found out that there was consensual terms between the parties and at the time of recording the statement before the officer concerned, entire sequence of events of incidents occurred in the relationship had been described in graphical manner and including the fact that number of occasions, they have developed physical relationship with consent. He submitted that considering the above stated totality of the facts,

Sardarnagar police had thought it fit to not to register FIR against them and thereafter, the impugned FIR has been registered at Chandkheda Police Station, pursuant to which, the investigation has commenced and ultimately, the charge-sheet has been submitted. Learned senior advocate Mr. Tolia further submits that as per correspondence from the Sardarnagar Police Station, the initial inquiry was closed before the registration of the FIR at Chandkheda Police Station.

6. Learned senior advocate Mr. Tolia submitted that considering the above stated sequence of events of the incident occurred in the present offence and totality of the facts in matter, the case of the applicant would squarely covere by the decisions rendered by the Hon'ble Apex Court in the case of *Mahesh Damu Khare versus the State of Maharashtra and Anr. reported in (2024) 11 SCC 398* and *Prashant versus State of NCT of Delhi (2025) 5 SCC 764*.

7. In view of submissions canvassed by learned senior advocate Mr. Tolia and having considered the documents produced on record, I am of the considered opinion that the matter requires consideration. Issue **Notice**, making it returnable on **02.07.2026**.

8. In the meantime, ad-interim relief in terms of para 7(C) is granted. Learned APP waives service of notice on behalf of the respondent – State.

Direct service qua respondent no.2 through concerned police station is permitted.

(DIVYESH A. JOSHI,J)

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