

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 8910 of 2018**

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PATIBEN JESABHAI BHEDA & ORS.

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR CHINTAN S POPAT(5004) for the Applicant(s) No. 1,2,3

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

RULE SERVED for the Respondent(s) No. 2

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CORAM:HONOURABLE MR.JUSTICE P. M. RAVAL**Date : 13/08/2026****ORAL ORDER**

1. The applicants before this Court have invoked provisions of Section 482 of the Criminal Procedure Code, 1973 ('CrPC', for short) seeking quashment of the FIR being C.R.No.I- 28 of 2018 registered with Talala Police Station, Gir Somnath for offences punishable under Sections 323, 504 and 114 of the Indian Penal Code, 1860 ('IPC', for short).

2. The allegations in the FIR are that Respondent No.2 - original complainant has married with accused no.1 namely Kanubhai Jeshabhai Bheda before ten years residing at Village Raydi and thereafter she went to reside with the family at Village Raydi. The sister of the husband of the complainant viz. Ajiben - original accused no.4 herein married to brother of the complainant. It is further alleged that after marriage, accused nos.1 to 4, who were residing at Village Raydi, in the vicinity however in different houses, and that accused no.4 viz. Ajiben was also having dispute with the brother of the complainant and therefore she was also residing at her

parental home at Raydi and that accused nos.5 to 7 were residing at Talala, and that all the persons used to taunt her and also harass her physically and mentally and demanded dowry. It is further alleged that on 18.03.2018, accused nos.1 and 2, inebriated condition abused the complainant and at that time all the accused persons had also abused her and beaten up the complainant pursuant to which phone call was made on 181 and informed the police, however, did not file any complaint at the relevant point of time. With such allegations, FIR came to be lodged.

3. Heard learned advocate for the applicants and learned APP Mr.Rohan Shah for the State - Respondent No.1. Though served, none appears for the original complainant - Respondent no.2.

4. Learned advocate for the applicants, at the outset, would submit that all other co-accused except the present applicants have been acquitted in Criminal Case No.286 of 2019 by learned Judicial Magistrate at Talala vide judgment and order dated 01.12.2025 wherein the complainant himself has turned hostile and under these circumstances has prayed that no useful purpose would be served to continue the proceedings against the present applicants inasmuch as the same would amount to exercise in futility.

5. Learned Additional Public Prosecutor Mr.Shah would submit that merely because the co-accused have been acquitted on the same grounds, the present FIR cannot be quashed qua the present applicants inasmuch as it is the

question of trial as to whether the complainant turned hostile against the present applicants or not and has thus argued that present applicant is required to be rejected.

6. The Hon'ble Supreme Court, in the case of Madhavrao Jiwajirao Scindia and others vs. Sambhajirao Chandrojirao Angre and others reported in (1988) 1 SCC 692, more particularly in para:7 has held as under:

“7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage.”

7. Considering the fact that complainant herself has turned hostile, no useful purpose would be served to ask the applicants to face the charge. Further, even on perusal of the above referred judgment it would reveal that the dispute was family skirmishes and the allegations of beating etc. are totally denied in toto. Under these circumstances, the present application is allowed. Rule is made absolute to the aforesaid extent.