

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CRIMINAL APPLICATION (DIRECTION - TO LODGE
FIR/COMPLAINT) NO. 6263 of 2025

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KUSUMBEN BHAGUBHAI PATEL

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR DAIFRAZ HAVEWALLA(3982) for the Applicant(s) No. 1

NOTICE SERVED BY DS for the Respondent(s) No. 2,3

MR. TRUPESH KATHIRIYA, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY

Date : 29/06/2026

ORDER

1. By filing the present petition under Articles 226 and 227 of the Constitution of India, the petitioner has prayed for the following reliefs: -

“A. Issue an appropriate writ, order or direction, quashing and setting aside the communication dated 07.02.2025 styled as Samaj Rasid (Annexure-JJ, whereby the respondent police authority has erroneously concluded that no cognizable offence is made out, despite ample evidence to the contrary,

B. Issue an appropriate writ, order or direction, directing that the petitioner's applications dated 05.06.2024 and 12.07.2024 (Annexure-A) for registration of FIR be forwarded to an independent investigating agency, such as any other police for fresh station in Surat except Sarthana Police Station, or any other appropriate agency, consideration and with a direction to take an appropriate action, including registration of FIR and investigation in accordance with law;

C. Issue an appropriate writ, order or direction, directing the respondent authorities to forthwith register an FIR on the basis of the petitioner's applications dated 05.06.2024 and 12.07.2024 (Annexure-A) and conduct a fair, impartial and expeditious investigation;

D. Declare that the failure of the respondent police authorities to register an FIR despite the disclosure of a cognizable offence is arbitrary, unreasonable and violative of the petitioner's fundamental rights guaranteed under Articles 14 and 21 of the Constitution of India;

F. Pending the hearing and final disposal of the present petition, direct the respondents to ensure status quo is maintained on the properties in question and to take immediate steps to prevent any further encroachment, tampering, or illegal possession by the proposed accused or their agents;

G. Grant such other and further reliefs as may be deemed just, fit, and proper in the interest of justice.”

2. From the record, it appears that the petitioner herein submitted applications for registration of FIR on 05.06.2024 and 12.07.2024 to the Commissioner of Police, Surat as well as to the Police Inspector, Sarthana Police Station, Surat complaining about the commission of a cognizable offence committed by the accused persons. Thereafter, vide communication dated 07.02.2025, the Police Sub-inspector of Sarthana Police Station had intimated the petitioner that since civil disputes are going on between the parties, no action is required at the hands of the concerned Police Station, and therefore, the complaint submitted by the petitioner was ordered to be filed.

3. In view of the judgment of the Hon'ble Apex Court in case of **Sudhir Bhaskar Rao Tambe Vs. Hemant Yashwant Dhage and Others** reported in **2016 (6) SCC 277**, the relief prayed for by the petitioner in the petition cannot be granted. It is always open for the petition to lodge a private complaint against the accused. In view of the same, the present petition is hereby dismissed.

(M. R. MENGDEY,J)

RAVI OZA

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: RAVI OZA(HCW0111), ENGLISH STENOGRAPHER GRADE I, at High Court of Gujarat on 30/06/2026 18:15:41