

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 8760 of 2025****With
R/CRIMINAL MISC.APPLICATION NO. 8761 of 2025**

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TENISH MANSUKHBHAI VEKARIYA**Versus****STATE OF GUJARAT & ANR.**

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Appearance:**S M KIKANI(7596) for the Applicant(s) No. 1****MR YOGESHKUMAR A RATANPARA(7260) for the Respondent(s) No. 2****MR RONAK RAVAL, PUBLIC PROSECUTOR for the Respondent(s) No. 1**

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CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI**Date : 24/06/2025****COMMON ORAL ORDER**

1. Since, both these matters arise from a common FIR, with the consent of the learned Advocates for the parties, the same are taken-up for final hearing and disposal together, today.

1.1 Hence, Rule. Learned APP waives service of rule for the Respondent-State and learned Advocate, Mr. Ratanpara, waives for Respondent No.2.

2. Here, it may be noted that during the pendency of these petitions, the petitioners arrived at an amicable settlement with the original complainant, i.e. the father of the deceased Monica. However, considering the fact that impugned FIR was filed under Section 306 of the Indian

Penal Code, so also the nature of the death of the victim-Monica, this Court was not inclined to quash the impugned FIR on the basis of the settlement arrived at by the parties and therefore, this matter was taken-up for hearing on merits.

3. By way of these petitions, the petitioners have prayed to quash and set aside the impugned FIR, being C.R. No. 11210065230084 of 2023, registered with Utran Police Station, District: Surat City, under Sections 306, 498-A and 114 of the Indian Penal Code as well as the proceedings of Sessions Case Nos. 71 of 2024 and 514 of 2024, pending before the Court of the learned Principal District & Sessions Judge, Surat ('Trial Court' in brief).

3.1 The petitioner in Criminal Misc. Application No. 8760 of 2025 happens to be the husband and the petitioner in Criminal Misc. Application No. 8761 of 2025 happens to be the mother-in-law of the deceased Monica and hence, for the sake of convenience, they shall be referred to as the petitioner-husband and petitioner-mother-in-law, hereinafter.

4. As per the FIR filed by the complainant – Respondent No.2, namely Shantibhai Naradbhai Bhanderi, the marriage of his late daughter, namely Monica, was solemnized with the petitioner-husband on 24.01.2017, as per the customs

of their caste. It is, further, stated in the FIR that the petitioner-husband, who is engaged in the business of diamonds, had been staying at Israel even before his marriage with the deceased Monica. One month, after their marriage, the petitioner-husband and the deceased Monica went to Israel and pursuant thereto, the couple used to come to India once or twice in a year.

4.1 It is stated in the FIR that before about one month from the date of lodging of the FIR, the deceased Monica informed the complainant that the petitioner-husband used to tell her that he does not like her and her in-laws also allegedly used to harass her. According to the complainant, the deceased Monica had complained that the petitioner-husband had an affair with another girl and he was pressurizing the deceased Monica to divorce him.

4.2 According to complainant, the deceased Monica had called him over phone on 09.02.2023, i.e. just before two days from the date of the alleged offence, and had informed her that her in-laws shall not allow her to live peacefully.

4.3 Then, the complainant has stated that on the date of the alleged offence, i.e. on 11.02.2023, while he was present at his office, he received a phone call from the petitioner-husband, who had taken the deceased Monica on conference call, but, before the deceased Monica could say

anything, the call was dropped. Thereafter, the petitioner-husband sent an audio clip through Whatsapp to the complainant and asked him to go to his house, immediately. Thereafter, the complainant also received a phone call from the petitioner-mother-in-law, who also asked the complainant to come to her house, at the earliest.

4.3.1 It is, further, the say of the complainant that when he reached the house of the petitioners, he found that the deceased Monica was sitting in her bedroom and she appeared to be very frightened. The deceased Monica, then, told the complainant that her mother-in-law had administered her something and she asked the complainant to take her to hospital. Thereafter, the complainant called his son-in-law and took Monica, firstly, to Pavasiya Hospital and then Monica was shifted to CIMS Hospital, where, she breathed her last breath.

4.4 Thereafter, the complainant filed the impugned Complaint on the very same day. Hence, the present petitions seeking quashing of the same.

5. Learned Advocate, Mr. Kikani, appearing for the petitioners submitted that the petitioner-husband has been residing at Israel, whereas, the petitioner – mother-in-law has been residing at Surat. It was submitted that after the deceased Monica married to the petitioner-husband, they

had been staying at Israel and they used to come to India only once or twice in a year and therefore, there was hardly any occasion to harass the deceased by the petitioner-mother-in-law. Thereby, it was submitted that the allegations made against the petitioners are imaginary and far-fetched.

5.1 It was submitted that the statements of the neighbours and more particularly, the further statement of Respondent No.2-the complainant do not support the case of the prosecution and hence, these petitions be allowed.

5.2 By relying on the observations made by the Hon'ble Apex Court in Paragraph-8 in the case of '**Laxmidas Vs. State of WB**', rendered in Criminal Appeal No. 706 of 2017, Dated: 21.01.2025, it was submitted that when Section 306 of the IPC is read with Section 107 of the IPC, it is clear that there must be there ingredients (i) direct or indirect instigation, (ii) in close proximity to the commission of suicide, (iii) clear *mens rea* to abet the commission of suicide.

5.2.1 According to learned Advocate, Mr. Kikani, aforesaid three ingredients are missing in the cases on hand.

5.3 Learned Advocate, Mr. Kikani, next relied on the

decision of this Court in the case of '**Sarojben W/o. Rajnikant Prahladbhai Purohit Vs. State of Gujarat**', rendered in Special Criminal Application No. 9314 of 2016, Dated: 30.04.2024, which is on the similar line and by relying on the same, it was prayed that as the aforesaid three ingredients are missing in this case, these petitions be allowed by quashing and setting aside the impugned FIR, especially, when the complainant also has arrived at an amicable settlement with the petitioners.

6. Learned Advocate, Mr. Ratanpara, appearing for the original complainant – Respondent No.2 also adopted the submissions made by the learned Advocates for the petitioners and prayed that these petitions be allowed.

7. On the other hand, learned APP, Mr. Raval, strongly opposed these petitions and submitted that the impugned FIR, itself, discloses that it was the petitioner-mother-in-law, who administered some substance to the deceased Monica, who was, though, taken to two different hospitals, expired within two hours, on the very same day, i.e. on 11.02.2023. It was, therefore, submitted that the complainant has specifically narrated the role played by the petitioner-mother-in-law and therefore, this petition may be dismissed.

7.1 It was also submitted that the alleged offence took

place within the seven years from the date of marriage of the petitioner-husband with the late Monica and therefore, as per Section 113B of the Indian Evidence Act, the statutory presumption would also go against the present petitioners. It was, therefore, prayed that these petitions be dismissed.

8. I have heard the learned Advocates for the parties and have also perused the material on record and I find that just before the two days from the date of the alleged offence, i.e. on 09.02.2023, the deceased Monica had told the complainant that the petitioners shall not allow her to live peacefully and pursuant thereto, the alleged offence took place, i.e. on 11.02.2023. Therefore, it cannot be said that there is no proximity or instigation in the case on hand.

8.1 Further, this Court also notices that the marriage of the petitioner-husband with the deceased Monica was solemnized in the year 2017, whereas, the alleged offence took place in the year 2023. Therefore, the statutory presumption, available under Section 113B of the Indian Evidence Act, shall also go against the present petitioners and which would not permit this Court to exercise discretion in favour of the petitioners.

8.2 From a bare perusal of the material on record, it appears that pursuant to the filing of the impugned FIR, now the charge-sheet is filed, which contains several statements

that go against the present petitioners. Thus, a plain reading of the FIR, *prima facie*, discloses the commission of an offence. Further, even as per the PM report, some poisonous substance was found in the body of the deceased Monica and therefore, I do not think that this a fit case to exercise the discretion in favour of the present petitioners.

9. In the result, both the petitions fails and the same are ***dismissed in limine***. Rule is discharged.

UMESH/-

(NIRZAR S. DESAI,J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: CHAVDA UMESH(HC00203), Principal pvt Secretary, at High Court of Gujarat on 01/07/2025 17:23:52