**Reserved On : 17/03/2026**
**Pronounced On : 01/05/2026**

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

**R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 4942 of 2018**

**FOR APPROVAL AND SIGNATURE:**

**HONOURABLE MR. JUSTICE M. R. MENGDEY**

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| Approved for Reporting | Yes | No |
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KEYUR MANUBHAI BALAR
Versus
STATE OF GUJARAT & ANR.

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Appearance:
MR ANSHIN DESAI, Senior Advocate with MR.NANDISH H THACKAR(7008) for the Applicant(s) No. 1
MR P P MAJMUDAR(5284) for the Respondent(s) No. 2
MS DIVYANGNA JHALA, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE M. R. MENGDEY**

**CAV JUDGMENT**

1. By filing the present petition under Articles 226 and 227 of the Constitution of India read with Section 239 of the Code of Criminal Procedure (hereinafter to be referred as the CrPC) the petitioner has prayed for the following relief:

> *"A) Your Lordships may be pleased to issue a Writ of Certiorari and/or any other appropriate writ, order or direction in the nature of certiorari quashing and setting aside the order dated 23.04.2018 passed by the learned 8th Additional Sessions Judge, Surat below in Criminal Revision Application No.289/2017 (Annexure-A) and be further pleased*

*to discharge the petitioner from in connection with Criminal Case No.16636/2012 pending in the court of learned Chief Judicial Magistrate, Surat;*

*B) Pending admission, hearing and/or final disposal of this petition, Your Lordships may be pleased stay the further proceedings of Criminal Case No.16636/2012 pending in the court of learned Chief Judicial Magistrate, Surat;*

*C) Such other and further orders as Your Lordships may deem just, fit and expedient be passed in favour of the petitioner."*

2. The facts and circumstances giving rise to filing of the petition are such that the FIR being I-C.R. No.777 of 2008 came to be registered with Umra police station, Surat city for the offences punishable under Sections 406, 430, 465, 467, 468, 471 and 120B of the Indian Penal Code against 11 persons. Initially, the investigating agency carried out the investigation into the FIR and submitted a C-Summary Report before the learned Trial Court. The learned Trial Court did not accept the C-Summary Report and ordered further investigation. After carrying out further investigation, the investigating agency filed charge-sheet against the accused including the petitioner. Thereafter, present petitioner preferred an application for discharge before the learned Trial Court vide Exhibit-16 in Criminal Case No.1666 of 2012. The learned Trial Court dismissed the said application vide order dated 23.01.2015. Against which, the petitioner had approached this Court by filing Criminal Revision Application No.170 of 2015. This Court, vide order dated 01.02.2017 allowed the said revision application and

remanded the matter back to the learned Trial Court for reconsideration by observing that the order passed by the learned Trial Court is an unreasoned order. Learned Trial Court upon remand of the matter reconsidered the application and vide order dated 15.05.2017 dismissed the application filed by the petitioner for discharge. Against the said order, the petitioner approached the learned Sessions Court, Surat by filing the Criminal Revision Application No.289 of 2017. Learned Sessions Court dismissed the said revision application vide order dated 23.04.2018. Being aggrieved by and dissatisfied with both the aforesaid orders, the petitioner has approached this Court by filing the present petition.

3. Heard learned Senior Advocate Shri. Anshin H. Desai appearing with learned advocate Shri. Nandhish H. Thackar for the petitioner. He submitted that as per the FIR itself, the incident alleged in the FIR had taken place in the year 2006 whereas the FIR came to be lodged in the year 2008. The investigating agency carried out the investigation and had submitted a C-Summary Report. Therefore, the investigating agency had not found any substance in the FIR lodged by the respondent no.2 herein. It was only after the C-Summary Report was rejected by the learned Trial Court and further investigation was ordered, the investigating agency submitted the charge-sheet against the accused persons including the present petitioner. He submitted that the petitioner herein is not named as an accused in the FIR. It is the case of prosecution that the original landowner had executed a Power of Attorney in favour of one Hanskamal Grover who expired on 08.08.2000. As per the

settled law, the document of Power of Attorney would not exist after the demise of the attorney. He further submitted that it is mentioned in the FIR that an Agreement to Sell was executed in favour of respondent no.2 herein. Mere execution of an Agreement to Sell would not confer any title over the property to respondent no.2. He further submitted that a suit for specific performance of Agreement to Sell was filed against the original owner being Special Civil Suit No.273 of 2002, wherein, the Learned Civil Court had granted no injunction and under the circumstances, if the original landowners had executed a Power of Attorney in favour of any other person, it would not amount to commission of an offence of criminal breach of trust or cheating. He further submitted that the petitioner herein had purchased the disputed land by a Sale-deed vide dated 21.08.2010 by paying the amount of consideration worth Rs.33.10 lakhs from one Jitendra Shamjibhai and Rameshbhai Shamjibhai. The FIR in question was lodged for the incident which had taken place prior to registration of the offence and therefore, it is an admitted position that no offence was committed on the date on which the petitioner purchased the property in question vide registered Sale-deed. The petitioner herein is a bona-fide purchaser and interestingly, the persons from whom the petitioner had purchased the disputed property have not been arraigned as an accused in the present case for the reasons best known to the prosecution. He further submitted that the dispute involved in the present case is purely of a civil nature which is sought to be converted into an offence by respondent no.2 by lodging the present FIR. There is no material whatsoever connecting the petitioner with the offence which is reported in the FIR dated

17.09.2008. He further submitted that an Agreement to Sell purportedly executed by Hanskamal Grover in favour of Ritaben Desai wife of Nareshbhai Desai does not bear the signature of the said Hanskamal Grover. The said agreement to sell was purportedly executed in favour of the wife of respondent no.2 on 02.07.1999 on the basis of the Power of Attorney executed by the original owner of the land Gandabhai Govanbhai Patel. However, the Power of Attorney in question had already been cancelled by the original landowner with effect from 04.06.1992 and therefore, Hanskamal Grover had no authority or power to execute any Agreement to Sell after 04.06.1992. He further submitted that Hanskamal Grover had two wives and both the wives had initially given consent to the heirs of the original owner of the land for sale of the disputed parcel of land in favour of other persons. Thereafter, one of the wives of Hanskamal Grover namely Ramaben retracted from the consent given by her earlier on 06.06.2011. However, in the interregnum, the petitioner had already purchased the disputed property by Registered Sale-deed dated 21.08.2010. It is the case of prosecution that the consent of the wife of Hanskamal Grover namely Ramaben given on 10.01.2006 had been forged. However she has not come forward to lodge any FIR in that regard. He further submitted that the petitioner is sought to be dragged in the present offence simply because he is related to the other co-accused. Even if it is believed for the sake of argument that the petitioner has committed any wrong, at best, it can be said to be a civil wrong and it cannot be said to be an offence. He therefore submitted to allow the present petition and quash and set aside the orders impugned in the present petition and discharged the petitioner of the offence in question. Learned Senior Advocate has sought to rely upon the following judgments in support of his submissions:

1) In case of **Ram Prakash Chadha Versus State of Uttar Pradesh** reported in **(2024) 10 Supreme Court Cases 651** passed **the Hon'ble Apex Court**.

2) In case of **Jaydip Dineshchandra Joshi Versus State of Gujarat** in **Special Criminal Application No.8052 of 2019** passed by **the Hon'ble Hight Court of Gujarat**.

4. Learned APP has opposed the present petition contending that there are concurrent findings recorded of a prime-facie case against the petitioner by the learned Trial Court as well as by the learned Sessions Court and therefore, the scope for his Court to interfere with the concurrent findings is very limited. He further submitted that the petitioner herein is implicated in the present case with the help of Section 120(B) of the Indian Penal Code. The material available on record clearly indicates that the petitioner herein was very much part of the conspiracy hatched for commission of the present offence. He therefore submitted to dismiss the present petition.

5. Learned advocate Shri. P. P. Majmudar appearing for respondent no.2 has also opposed the present petition. He submitted that prior to filing the present petition, the petitioner had approached this Court by filing Special Criminal Application No.1008 of 2012. By filing the said petition, the petitioner had

prayed for quashing of the charge-sheet filed by the investigating agency against him. The Coordinate Bench of this Court had dismissed the said application vide order dated 25.10.2013. He further submitted that on 21.11.2006, one Babubhai Gabani had executed a sale deed in favour of co-accused Ramesh Navadiya on the basis of Power of Attorney executed in his favour by the heirs of the original owner and for the said purpose, the wife of Hanskamal Grover namely Ramaben had given her consent. Ramaben Grover, in her statement given before the investigating agency on 25.03.2012, has categorically stated that she had not given any consent letter to Rameshbhai Navadiya and she had not signed any such consent letter and the consent letter in question in her name was forged. On 03.04.2007, Rameshbhai Navadiya sold the disputed land to one Nathabhai Jivani. Thereafter, on 25.03.2008, Nathabhai Jivani sold 50% of the disputed land to Jitendrabhai and Rameshbhai Waghasia and sold other 50% of the land to Jayesh Balar. He further submitted that it has come on record that both Jitendra Waghasia and Ramesh Waghasia were assured that the titles of the land were clear. However, after having purchased the land, Jitendrabhai Waghasia and Rameshbhai Waghasia came to know that several litigations were going on as regards the disputed land and therefore, they again approached the accused saying that they did not want the disputed land and demanded their money back and they were assured by the accused that they would get the titles of the land cleared. Ultimately, they had sold the disputed land to the present petitioner vide Sale-deed dated 21.08.2010. He further submitted that the petitioner herein is closely related to the other co-accused and he was sitting in the office of Balar Exports with the other co-accused and therefore, it is clear that the petitioner had actively participated in hatching the conspiracy for commission of the present offence. He further submitted that as per the settled law, while considering the application for discharge, the Court has to consider as to whether material sufficient to prosecute the accused is available on record or not. The Court is not required to consider whether the material available on record against the accused is sufficient to convict him. He therefore submitted to dismiss the petition. Learned advocate has sought to rely upon the following judgments in support of his submissions:

1) In case of **State of Rajasthan Versus Ashok Kumar Kashyap** reported in **(2021) Supreme Court Cases 191** passed by **the Hon'ble Apex Court**.

2) In case of **Central Bureau of Investigation Versus Aryan Singh etc.** reported in **2023 SCC OnLine SC 379** passed by **the Hon'ble Apex Court**.

6. Heard learned advocates for the parties. The dispute involved in the present case revolves around Land Bearing Survey No.392(B) situated at Village Vesu, District Surat. One Gandabhai Govanbhai Patel was the original owner of the said land. In the year 1986, the land in question was sold by the original owner Gandabhai to one Hanskamal Grover. However, since the land in question was an agricultural land and Hanskamal Grover was not an agriculturalist, the Sale-deed

could not be executed in favour of Hanskamal Grover and hence, an Agreement to Sell with possession was executed by the original owner Gandabhai in favour of Hanskamal Grover and possession of the land was also handed over to him. On 16.02.1989, the original owner had also executed a Power of Attorney in favour of the said Hanskamal Grover. Hanskamal Grover, thereafter, sold the land to one Anil Taneja. However, due to some dispute between Anil Taneja and Hanskamal Grover, the said Anil Taneja had filed a Regular Suit No.702/1991. Thereafter, petitioner and Hanskamal Grover came into contact with each other and Hanskamal Grover had offered to sell the disputed land to respondent No.2. Resultantly, respondent No.2 agreed to purchase the disputed land from Anil Taneja by paying full consideration to Anil Taneja and the original owner. It is the case of prosecution that respondent No.2 paid the entire dues to Anil Taneja and the original owner and the Regular Civil Suit No.702/1991 was compromised and permanent injunction was granted in favour of respondent No.2. It reflects from the record that another parcel of land, which was adjacent to the land purchased by Hanskamal Grover from the original owner, had also been purchased by Hanskamal Grover. Since respondent No.2 wanted to develop the land by converting it to non-agricultural land, he had issued an advertisement in the local newspaper inviting objections from the interested parties and it came to his notice that though, the disputed land was sold to him after having pocketed money, the heirs of the original owner executed a Power of Attorney in favour of one Babubhai Manjibhai Gabani on 03.02.2006. On the basis of the same Power of Attorney, on 21.11.2006, Babubhai Gabani executed a Sale-deed in favour of Rameshbhai Navadiya. It also appears from the record that for effecting the said transaction, a consent letter in the name of wife of Hanskamal Grover namely Ramaben was prepared. Ramaben, in her statement given to the investigating agency on 25.03.2012, has stated that she had not given any such consent letter to Rameshbhai Navadiya, which indicates that the consent letter in the name of the said Ramaben was forged. In the interregnum, the land was converted into a non-agricultural land from an agricultural land and despite the same, Ramesh Navadiya sold the disputed land to one Nathabhai Ranchodbhai Jivani as an agricultural land. Nathabhai, in turn, sold 50% of the land in favour of Jitendra Waghasia and Ramesh Waghasia and the remaining 50% of the land was sold in favour of Jayesh Balar. Both Jitendra Waghasia and Ramesh Waghasia were assured that the titles of the land were clear. However, subsequently, Jitendra Waghasia and Ramesh Waghasia came to know that several litigations were going on pertaining to the land in question and that the titles of the land which was sold to them were not clear. They therefore, approached the accused persons and informed them that they did not want the disputed land and demanded their money back. Thereafter, the disputed land was purchased by the present petitioner from Jitendra Waghasia and Ramesh Waghasia. The investigating agency has recorded the statement of Jitendra Waghasia on 24.03.2012 wherein he has stated that his younger brother namely Rameshbhai happened to know Nathabhai Ranchodbhai Jivani. The said Nathabhai Ranchodbhai Jivani was carrying on the business of sale and purchase of land in his office named Balar Exports and therefore, he and his brother happened to visit the office of Nathabhai Ranchodbhai Jivani. The perusal of the statement of the said Jitendra indicates that the petitioner herein happens to be in close relation with the other co-accused and he also used to be present in the office of Balar Exports when Jitendrabhai and Rameshbhai used to visit. He has further stated that he and his brother had agreed to purchase share of 25% each in the disputed land from Nathabhai Ranchodbhai. They were promised that the titles of the land were clear and no dispute or litigation was going on qua the said land. Subsequently, they came to know that respondent No.2 and his wife were having some interest in the land and some litigations were also going on in that regard since the year 2002. He also came to know that the heirs of original owner Gandabhai had executed a Power of Attorney in the name of Babubhai Gabani, though they had no right over the disputed land in the year 2006 and on the basis of the said Power of Attorney, Ramesh Navadiya had purchased the disputed land. When he and his brother demanded their money back, the petitioner had purchased the disputed land from them vide registered Sale-deed dated 21.08.2010. He has also stated that he and his brother had executed Sale-deed in favour of the petitioner upon being insisted by the other co-accused as well as the petitioner. From the perusal of the said statement, it prima-facie appears that the entire conspiracy was hatched to usurp the land which had been purchased by respondent No.2 and his wife. As stated by Jitendrabhai Waghasia in his statement, he and his brother had executed, Sale-deed in favour of the petitioner upon being insisted for doing so by the petitioner and the other co-accused. This aspect gives reason to believe that the petitioner herein was also part of conspiracy which was hatched for commission of the offence in question.

7. It is pertinent to note that after rejection of the C-Summary Report submitted by the investigating agency, the further investigation was carried out and charge-sheet was filed against the accused including the petitioner. Thereafter, the petitioner had approached this Court by filing Special Criminal Application No.1008 of 2012 challenging the FIR as well as the charge-sheet and the Coordinate Bench of this Court had dismissed the said petition vide order dated 25.10.2013. The perusal of the order dated 25.10.2013 indicates that almost all the contentions which are sought to be canvassed in the present petition were canvassed during the course of hearing of the earlier petition. This Court in its order dated 25.10.2013 had made the following observations:

> *"16. Nonetheless, at this stage, when the court is considering a quashing petition after the charge-sheet has been filed, it would be relevant for the court to look into all the charge-sheet papers to examine whether there is any material to substantiate such allegation of forgery, thereby justifying invocation of the provisions of 465, 467, 468 and 471 of the Indian Penal Code. In this regard, a perusal of the documents on record reveal that the power of attorney has been executed by the heirs of the original owners in favour of Babubhai Manjibhai Gabani, based upon consent letters given by Kaminiben and Ramaben, the widows of Hans Kamal Grover. However, Ramaben Hans Kamal Grover has in her statement before the police stated that she has not executed any such consent letter and that Rameshbhai Navadia has fabricated such consent letter without her knowledge. Thus, there is material on record to suggest that the consent letter issued by Ramaben Hans Kamal Grover has been fabricated. Under the*

*circumstances, even if it were to be accepted that the power of attorney executed by the heirs of the original owner, is not a forged document, the material on record does reveal that the consent letter issued by Ramaben is a forged one. Therefore, at this stage, while considering a petition for quashing, prior to the framing of the charge, it is not possible for the court to say that the offence of forgery is not made out on the material on record.*

*17. Insofar as the offence of cheating as envisaged under section 420 IPC is concerned, on the allegations made in the first information report, it is apparent that the original owner and his heirs had induced the first informant to part with valuable consideration, prior to giving up their rights in the disputed land. However, thereafter, the original owners have backed out and have executed another power of attorney for execution by a sale deed in favour of Rameshbhai Navadia, in breach of the agreement with the first informant. Under the circumstances, at this stage it cannot be said that the accused, right from the inception, did not have any intention of cheating the first informant, so as to rule out commission of the offence under section 420 IPC.*

*18. As regard commission of the offence under section 406 IPC, on the allegations made in the first information report, it is apparent that an agreement had been entered into between the original land owner and his heirs and the first informant - Hans Kamal Grover and Anil Taneja to the effect that the first informant would pay consideration to the original owner and Anil Taneja whereupon the original owners and Anil Taneja would give up all right, title and interest in the subject land. It was pursuant to such agreement that the consideration had been paid by the first informant to the original owners and Anil Taneja. However, since at the relevant time, it was not possible to transfer the land, a power of attorney came to be executed in favour of Hans Kamal Grover. However, upon the death of Hans Kamal Grover the heirs of the original land owner sold the land to Ramesh Navadia. Thus, it cannot be stated that the* *offence of criminal breach of trust as envisaged under section 406 IPC is not made out.*

*19. On behalf of the petitioner in Special Criminal Application No.1008/2012, it has been contended that he is a bonafide purchaser who has purchased the land from the third purchaser. That originally, the land was purchased by Rameshbhai Navadia who in turn had sold the land to Nathabhai Ranchhodbhai Jivani. Nathabhai Ranchhodbhai Jivani had sold 50% of the land to Jitendra Shamjibhai Vaghasia and Rameshbhai Shamjibhai Vaghasia, from whom the said petitioner had purchased the land with valuable consideration. In this regard, though in the first information report, no allegation has been made against the said petitioner, in the charge-sheet, he has been arraigned as accused No.7. From the statement of Jitendra Shamjibhai Vaghasia recorded on 24th March, 2012 by the Investigating Officer, it is revealed that Nathabhai Ranchodbhai Jivani along with his group and relatives sits at the office by the name of Balar Exports and all of them are engaged in the business of sale and purchase of land. The said Jitendrabhai along with his brother Rameshbhai, time and again used to visit their office (Balar Exports), where Nathabhai Ranchodbhai Jivani, Nathabhai's brother-in-law Manubhai Jivrajbhai Balar's son Keyur, Keyur's paternal uncle's son Jayesh Govind Balar and Keyur's maternal uncle Ramesh Vithalbhai Navadia as well as Keyur and Jayesh's fathers' first cousin Babubhal Gabani were all closely connected with each other and together used to handle the business of dealing in land as partners. That it was at the instance of all the accused that he and his brother had purchased the disputed land and it was when they found that the title of the land was not clear and that civil proceedings were pending in respect thereof, that they had approached the said accused persons, and at their instance they had sold the land to the petitioner -Keyurbhai Balar, who was also one of their accomplices. Thus, in the present case when section 120B IPC has been invoked, having regard to the material on record, it cannot be stated that the offences as alleged in the first information report are not made out.*

*Under the circumstances, no case has been made out so as to warrant interference in exercise of powers under section 482 of the Code."*

8. Thus, the Coordinate Bench had observed that there existed a strong prima-facie case against the petitioner for commission of the offence in question. This Court had also referred to the materials collected during the course of investigation for recording its findings as regards prima-facie case against the petitioner.

9. In view of these facts, the learned Trial Court as well as the learned Sessions Court cannot be said to have committed any error in passing the orders impugned in the present petition. Hence, the present petition stands dismissed being devoid of any merit. Rule is discharged. Interim relief granted earlier stands vacated.

**(M. R. MENGDEY,J)**

AHS