

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/SPECIAL CRIMINAL APPLICATION NO.6980 of 2025
(QUASHING)**

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GHANSHIYAM VALLABHBHAI PAMBHAR & ORS.

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR ASHISH M DAGLI for the Applicant(s) No. 1,2,3,4

MS ASMITA PATEL APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI

Date : 09/05/2025

ORAL ORDER

Learned advocate, Mr. Dagli submitted that the applicants herein have been prosecuted by the respondent no.2 in the proceeding instituted under the provision of Section 138 of the NI Act, wherein the concerned Court has taken cognizance upon the facts of the case by issuing process, however recently, the said process was served upon the applicant and they came to know about the said proceeding. He further submitted that the applicants are the partners of the partnership firm, copy of deed is produced on record, wherein the name and address of the applicants is clearly mentioned. He further submitted that it is an admitted position of fact that at the time of institution proceeding under Section 138 of the NI Act, notice is required to be served, however in the present case, no notice has been served upon the applicants and despite that, the aforesaid proceeding has been instituted and

in support of it, acknowledgment slip is produced on record. It is, therefore, submitted that there is non-compliance of the procedure as required under Section 138(B) of the NI Act and the complainant ought to have fulfilled the said mandatory requirement, which is missing in the present case. It is, therefore, submitted that the initiation of the proceedings under Section 138 of the NI Act and issuance of the process upon the applicants is nothing but an abuse of the process of law and, therefore, the same is required to be quashed and set aside. It is, therefore, prayed to protect the applicants by passing appropriate orders.

In view of the above submission, issue **Notice** upon the respondents returnable on **27th June, 2025**.

Learned APP waives service of notice for respondent – State of Gujarat.

Ad-interim relief in terms of Para No.8(C) till then.

(DIVYESH A. JOSHI, J.)

Gautam