

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 14167 of 2021

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE P. M. RAVAL

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Approved for Reporting	Yes	No
		✓
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TAKHATMAL MULTANMAL BHAWAD(JAIN)
 Versus
 STATE OF GUJARAT & ANR.

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Appearance:

MR SAMIR AFZAL KHAN(3733) for the Applicant(s) No. 1

MR NK MAJMUDAR(430) for the Respondent(s) No. 2

MR. K. M. ANTANI, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR.JUSTICE P. M. RAVAL

Date : 07/07/2026

ORAL JUDGMENT

1. The applicant before this Court is accused No.2 in FIR No.B-11210003211046 of 2021, lodged on 27.07.2021, for offenses punishable under Sections 323, 504, 506, 507 read with Section 114 of the Indian Penal Code, by the respondent No.2 herein, before the Adajan Police Station, Surat, for quashing and setting aside the said FIR.

2. When the matter is called out, learned advocate Mr. N. K. Majmudar for the complainant is not present.

3. Rule is fixed forthwith. Learned Additional Public Prosecutor waives service for respondent – State.

4. The allegations qua the present applicant – original accused No.2, in the FIR are to the effect that while the complainant was traveling alone on her moped somewhere in March 2021 at about 7:30 in the evening, towards Monark Circle from Toyota Showroom on L. P. Savani Road, just opposite to Provision Store Shop, accused No.2 arrived in his four wheel car and stopped near the complainant, due to which the complainant also stopped her vehicle, and asked the complainant to sit in the car and stated that I will show you what is rape. It is also further alleged that the accused No.2 further stated that his son would not live with the complainant and that the complainant should stay with him and that he will keep her happy. With the aforesaid allegations, the complaint came to be lodged against the present applicant as well as his son. The present applicant original accused No.2 is before this court.

5. Learned advocate Mr. Samir Afzal Khan for the applicant would submit that applicant has no relationship with his son, after he got married with the present complainant in the year 2005, more particularly, on 03.07.2006 in Daily Newspapers “Gujarat Samachar” and “Rajasthan Patrika”, a public notice was given that he has no relation with his son, and that way back in 2012, more particularly 04.10.2012, the wife – complainant herein and the son of

the present applicant, had entered into a divorce agreement on a 100 rupees stamp paper, pursuant to which also the present complaint is filed for the alleged offence committed in March 2021, belatedly on 27.07.2021 without there being any explanation, only with a view to take vengeance of the marital discord between the son of the present applicant and the complainant, and thus, argued to allow the present application.

5.1. Learned advocate for the applicant would further submit that the applicant was not present in India from 13th March to 24th March 2021, which would be evident from the photocopy of passport which is placed on record to point out that no such alleged incident has taken place, and in absence of any specific date, merely based on vague allegation, FIR cannot sustain and has argued to allow the present application.

6. Learned Additional Public Prosecutor Mr. K. M. Antani for the State would submit that when there are no independent witnesses and the witnesses alleged to have been doing their daily earnings by standing near the alleged place of offence have also not seen such offence having committed, order may be passed in accordance with law. Learned APP would further submit that the investigation is over and chargesheet qua accused No.1 – son of the present applicant, is already filed.

7. Heard learned advocate for the applicant and learned APP for the State. This Court has perused the FIR as well as the papers appended with the application, more particularly, the complainant has not controverted the documents placed on record. It also transpires that a complaint under Section 323, 507, 498-A, 494 and 114 IPC was lodged on 19.03.2016 against the present applicant as well, being CR No.I-26 of 2016 with the Rander Police Station, Surat, wherein the investigation agency has found that, no case is made out and submitted the report to the concerned trial Court. It is also not disputed that by entering into agreement on 04.09.2012, the son of the present applicant had entered into divorce with the original complainant. It is also not disputed that the present applicant had issued a public notice, on 03.07.2006 in the daily newspapers “Gujarat Samachar” and “Rajasthan Patrika” snapping his relationship with his son. It is also not in dispute that no specific date has been stated by the complainant in her FIR nor even in her statement before the police during investigation.

8. In view of the same, based on such vague allegations, if the proceedings are allowed to be continued, would amounts to abuse of process of law, inasmuch as, the factum of divorce though on a non-judicial stamp paper, is entered into way back in 04.09.2012, and that earlier FIR was also found substanceless, the present FIR of the alleged incident in the month of March 2021, for which a complaint is lodged in the end of July 2021 (27.07.2021) does not repose

confidence, and would squarely fall within the principles laid down by the Hon'ble Supreme Court in the case of **State of Haryana Vs. B.Bhajanlal & ors.**, reported in **AIR 1992 SC 604**.

9. Resultantly, the present application succeeds and is hereby allowed. The FIR No.B-11210003211046 of 2021, dated 27.07.2021, lodged before the Adajan Police Station, Surat, and all consequential proceedings arising therefrom, qua the applicant herein, are hereby quashed and set aside.

10. Rule is made absolute to the aforesaid extent. Direct service is permitted.

NITIN MAKWANA

(P. M. RAVAL, J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: NITIN INDRAVADAN MAKWANA(HCW0110), ENGLISH STENOGRAPHER GRADE ONE, at High Court of Gujarat on 08/07/2026 13:40:34