

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 13738 of 2013**

**With
CRIMINAL MISC.APPLICATION (FOR STAY) NO. 1 of 2014
In R/CRIMINAL MISC.APPLICATION NO. 13738 of 2013**

FOR APPROVAL AND SIGNATURE:

HONOURABLE MRS. JUSTICE M. K. THAKKER

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Approved for Reporting	Yes	No
		✓
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**RAMSINGBHAI HAMIRBHAI MORI
Versus
STATE OF GUJARAT & ANR.**

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Appearance:

MR BM MANGUKIYA(437) for the Applicant(s) No. 1
MS BELA A PRAJAPATI(1946) for the Applicant(s) No. 1
MR RONAK RAVAL, ADDL.PUBLIC PROSECUTOR for the Respondent(s)
No. 1
UNSERVED EXPIRED (N) for the Respondent(s) No. 2

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CORAM:HONOURABLE MRS. JUSTICE M. K. THAKKER

Date : 01/04/2026

JUDGMENT

1. This Court has passed the following order on 25.03.2025:

“In the first round, colleague of learned advocate Mr. Mangukiya requested for pass over. Thereafter, in the second session, the colleague of learned advocate Mr.

Mangukiya requested for time on the ground that due to the medical emergency, learned advocate Mr. Mangukiya had to leave the Court.

In the interest of justice, the matter is kept on 01.04.2026 and shall be taken up in the first round, even if learned advocate Mr. Mangukiya would not be there.”

2. Learned advocate Mr. B.M. Mangukiya was not present, and as the matter has been pending since 2013, this Court deems it fit to proceed with the matter.
3. The present application has been filed for quashing of the FIR being I-C.R.No.66 of 2011 registered with Sutrapada Police Station, Junagadh against the present applicant, who is arraigned as accused No.2, along with accused No.1, namely Pareshbhai Arjanbhai Solanki, Secretary of Pransli Seva Sahkari Mandali Ltd., for the offences punishable under Sections 406, 408, 420, 468, 469, 471 and 114 of the Indian Penal Code.
4. It is alleged that the present applicant sanctioned loans in favour of certain persons who turned out to be defaulters and thereby abetted defalcation to the tune of Rs.16,00,000/-. It is further alleged that accused No.1, being the Secretary, collected money from the members of the society and issued receipts, but failed to credit the same in the day book of the

society or deposit it in the Pransli Branch of Junagadh District Cooperative Bank Ltd. It is reported that on account of the pendency of the present application, the applicant was not chargesheeted. However, the trial proceeded qua accused No.1 and the complainant, who was subsequently arraigned as an accused. During the pendency of the proceedings, accused No.2 (the complainant) passed away, and accordingly, the proceedings against him abated, and accused No.1 came to be acquitted.

5. This Court has considered the allegations made in the FIR, which suggest that the present applicant, in his capacity as Branch Manager, sanctioned loan facilities in favour of certain persons who were defaulters. Upon perusal of the material produced by the Investigating Officer, it transpires that the applicant disbursed the loan amounts to farmers who had applied for such loans and whose names were recommended by the society. It further emerges that the applicant acted upon the demand received from the society and sanctioned the loans after obtaining approval from the loan committee of the District Bank. There are no specific allegations against the present applicant with regard to forgery, cheating or criminal breach of trust. Moreover, in view of the fact that the trial against the main accused has culminated in acquittal, continuation of the

proceedings against the present applicant would amount to unnecessary harassment. Accordingly, in order to secure the ends of justice, the impugned FIR deserves to be quashed.

6. At this stage, this Court has referred to the decision of the Apex Court in **State of Haryana v. Bhajan Lal**, reported in **1992 Supp (1) SCC 335**, wherein the Apex Court has laid down the guidelines governing the exercise of inherent powers under Section 482 of the Code of Criminal Procedure which are reproduced hereinbelow:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- (i) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(ii) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(iii) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(iv) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(v) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(vi) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(vii) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

7. This case falls under the criteria (i) and (v) from the case of **Bhajan Lal (supra)**, therefore the application deserves to be allowed.
8. Resultantly, present application is allowed. The impugned FIR being I-C.R.No.66 of 2011 registered with Sutrapada Police Station, Junagadh as well as as well as all consequential proceedings arising therefrom, are hereby quashed and set aside. Rule is made absolute accordingly.

M.M.MIRZA

(M. K. THAKKER,J)