

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 15032 of 2024**

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BHAVINBHAI BIMALKUMAR MISTRY PROPRIETOR OF MARTIN
IMPEX
Versus
STATE OF GUJARAT & ANR.

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Appearance:

KAUSHAL S JANI(7627) for the Applicant(s) No. 1
MR RAJ H JOBANPUTRA(10779) for the Applicant(s) No. 1
MR RONAK RAVAL ADDITIONAL PUBLIC PROSECUTOR for the
Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI

Date : 08/09/2025

ORAL ORDER

1.Heard learned advocate, Mr. Raj Jobanputra,
appearing for the applicant.

2.Learned advocate Mr. Raj Jobanputra draws the
attention of this Court to the fact that, at the
time when the notice was issued, it was vague.
The complaint was filed in respect of the total
amount allegedly outstanding against the present
applicant without specifying the rate of

interest. Though reference is made to three different invoices, the total of those invoices comes to around Rs. 52,25,000/-, whereas in the complaint, the complainant has stated the total outstanding amount as Rs. 53,11,831/-, without mentioning the rate of interest or any other relevant particulars. Therefore, in the absence of such specific and material details, proceedings under Section 138 of the Negotiable Instruments Act ought not to have been initiated against the present applicant, since the disclosure of these details is mandatory to establish the existence of a legally enforceable debt, and the cheque in question was issued only towards part payment of the aforesaid amount.

3. Considering the above submissions, issue **NOTICE to the respondents, returnable on 06.10.2025.** Learned Additional Public Prosecutor waives service of notice on behalf of respondent No.1 – State. Direct service to respondent No.2 through the concerned Police Station is permitted. In

the meantime, there shall be ad-interim relief in terms of paragraph 8(C), qua the present applicant only.

(NIRZAR S. DESAI,J)

Pallavi