

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 9608 of 2014****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE P. M. RAVAL**

Approved for Reporting	Yes	No
		No

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DIVYESH PARSHOTTAMBHAI SOLANKI

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
NOTICE SERVED BY DS for the Respondent(s) No. 2
MR KANVA ANTANI APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR.JUSTICE P. M. RAVAL

Date : 02/09/2026

ORAL JUDGMENT

1. The present application is filed seeking quashment of the FIR being C.R.No.I - 306 of 2013 lodged with Sector 7 Police Station, Gandhinagar for offence punishable under sections 302, 201 and 114 of Indian Penal Code and Section 135 of Gujarat Police Act.

2. The facts of the case, as per the FIR, in brief are to the effect that;

2.1 the FIR is lodged by the then Police Inspector, Sector 7 Police Station, Gandhinagar *inter alia* stating therein that during duty hours on 23.12.2014 at around 8:00 O'clock, he received instructions as regards Accidental Death No.64 of 2013 recorded under Section 174 of Cr.P.C. and on receiving

information, he reached to Civil Hospital, Gandhinagar where he found dead body of young boy lying on stretcher sustained various injuries by knife and accordingly he lodged an FIR being C.R.No. I - 306 of 2013 for offence punishable under Section 302 of the Indian Penal Code and Section 135 of Gujarat Police Act.

2.2 As per prosecution case, the Innova Car wherein the dead body of young boy was brought, had been recovered by the Investigating Agency and after drawing necessary panchnamas and inquest panchnama, the accused named in the FIR, including the present applicant, have been arrested.

3. Heard learned advocate Mr.Mangukiya, for the applicant and Mr.Kanva Antani, learned Additional Public Prosecutor for the respondent State.

4. Mr.Mangukiya, learned advocate for the applicant would submit that original accused no.1 viz. Yash @ Lalu Arvindbhai Sarvaiya, original accused no.2 viz. Jorubhai Bijalbhai Makvana and original accused no.3 viz. Bharatbhai Ganpatlal Sharma, who were charged with offence under Sections 302, 201 and 114 of the Indian Penal Code so also Section 135 of the Gujarat Police Act, have been given clear cut acquittal by the Sessions Court i.e. learned 2nd Additional Sessions Judge, Gandhinagar, vide judgment and order dated 30.04.2016 in Sessions Case No.58 of 2014.

4.1 Mr.Mangukiya, learned advocate pressed upon the aspect that these were the original accused who were charged

with offence of murder who have already been acquitted and the role of the present applicant, as per the prosecution case, was to the effect that the present applicant had helped in destroying the evidence. However, Mr.Mangukiya, learned advocate would submit that version of the present applicant was not taken into consideration that on receiving call regarding quarrel took place he immediately reached at the place of offence where he found quarrel resulted into serious injuries sustained by the deceased and to save the injured (deceased) he took him in Innova Car to the Civil Hospital where he declared dead by the doctor. He would harp on this aspect that the role alleged against the present applicant is that the applicant on the way while taking injured to Civil Hospital destroyed the evidence and cleaned the Innova car, however, the FIR against the owner of the Innova car viz.Hemraj Ramjibhai Padaliya has already been quashed and set aside.

4.2 Mr.Mangukiya, learned advocate relying upon the order of acquittal of other accused would submit that when the persons who are clearly alleged to have committed murder inflicting knife blows on the deceased have been given clear cut acquittal, the prosecution against the present applicant even if believing minor role as per the prosecution, is nothing but an exercise in futility. He, therefore, prays to quash and set aside the impugned FIR against the present applicant.

5. Per contra, learned APP Mr.Kanva Antani, learned Additional Public Prosecutor for the respondent State would fairly submit that it is undisputed fact that in Sessions Case

No.58 of 2014 all the original accused Yash @ Lalu Arvindbhai Sarvaiya, Jorubhai Bijalbhai Makvana and Bharatbhai Ganpatlal Sharma have been given clear cut acquittal by the Sessions Court. Whereas other co-accused Hemraj Ramjibhai Padaliya in whose Innova car body of deceased was taken, whereby the present applicant was also accompanied, FIR qua him Hemraj Ramjibhai Padaliya was also quashed and set aside by order dated 05.05.2014 in Criminal Miscellaneous Application No.5717 of 2014. He fairly conceded that as such main accused have been acquitted, no useful purpose would be served in continuing with the present FIR qua the present applicant.

6. Heard learned advocates for the respective parties.

6.1 This Court has gone through the FIR as well as papers of charge-sheet appended with the application memo. This Court has also gone through the judgment and order of the Sessions Court Sessions Court i.e. learned 2nd Additional Sessions Judge, Gandhinagar, vide judgment and order dated 30.04.2016 in Sessions Case No.58 of 2014 whereby clear-cut has been given to original accused no.1 viz. Yash @ Lalu Arvindbhai Sarvaiya, original accused no.2 viz. Jorubhai Bijalbhai Makvana and original accused no.3 viz. Bharatbhai Ganpatlal Sharma, for offence punishable under Sections 302, 201 and 114 of the Indian Penal Code so also Section 135 of the Gujarat Police Act. Whereas other co-accused Hemraj Ramjibhai Padaliya in whose Innova car body of deceased was taken by the present applicant, FIR qua him was also quashed and set aside by order dated 05.05.2014 in Criminal

Miscellaneous Application No.5717 of 2014.

6.2 Under the circumstances, when the original accused who had committed murder had been given clear-cut acquittal, the role attributed to the present applicant, even as per case of the prosecution, is of disappearing of evidence and that of not disclosing factum of crime being committed attracting the provisions of Section 201 and 114 of IPC, more particularly as held by Hon'ble Supreme Court of India in the case of *Madhavrao Jivajirao Scindia and others vs. Sambhajirao Chandrojirao Angre and others* reported in **(1988) 1 SCC 692**, in para:7 that when there is bleak chances of conviction, no useful purpose would be served to relegate the present applicant back to trial Court to face trial as the same would be exercise in futility and would be a criminal wastage of time and money, the present application requires consideration.

7. Even otherwise, two eye witnesses of the alleged incident viz. Jayesh Babubhai Patel and Sureshbhai Chagganbhai Hirani have not supported the case of prosecution and were declared hostile during trial. Under such circumstances, no useful purpose would be served in continuing the FIR.

8. For the reasons recorded above, the present application is allowed. FIR being C.R.No. I - 306 of 2013 for registered with Sector 7 Police Station, Gandhinagar against the present applicant and consequential proceedings thereof, are hereby

quashed and set aside. Rule is made absolute to the aforesaid extent. Direct service is permitted.

MISHRA AMIT V.

(P. M. RAVAL, J)