

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 9943 of 2014
With
R/CRIMINAL MISC.APPLICATION NO. 9946 of 2014**

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BHARATKUMAR BALMUKUND PARIKH
Versus
STATE OF GUJARAT & 1 other(s)

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Appearance:

NANAVATY ADVOCATES(1373) for the Applicant(s) No. 1
MR R G DWIVEDI(6601) for the Respondent(s) No. 2
MS POOJA H HOTCHANDANI(7765) for the Respondent(s) No. 2
PUBLIC PROSECUTOR for the Respondent(s) No. 1

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**CORAM: HONOURABLE MR. JUSTICE CHEEKATI
MANAVENDRANATH ROY**

Date : 02/02/2024

ORAL ORDER

1. As per the order dated 20.12.2023, this Court has directed the police to file appropriate report regarding investigation carried out and the present status of the matter and ordered to list the matter on 15.1.2024 and further directed the investigation officer to remain present on that day in the Court with necessary papers. As the Court did not sit on that day i.e. on 15.1.2024, the matter is listed again on 29.1.2024. On that day, the investigation officer was not present in the Court, therefore, at the request if learned APP, Ms.Maithili Mehta, the matter is ordered to be listed today i.e. on 2.2.2024 on the top of the Board, and further directed that investigation officer shall remain present today with necessary papers to ascertain the stage of investigation.

2. Despite specific direction to the investigation officer to be present in the Court to ascertain the stage of investigation, the investigation officer deliberately did not attend the Court today. When the matter was taken up in the morning session, learned APP requested to take up the matter at 2.30 p.m. stating that investigation officer will be present at 2.30 p.m. Accordingly, the matter is taken up in post-lunch session.

3. The investigation officer is not present today before the Court. He did not produce necessary papers to ascertain the stage of investigation as directed. However, learned APP has placed on record "A" summary report. The conduct of the investigation officer viz. Mr.Ravi Patel, Police Inspector, in deliberately flouting the direction of the Court and not attending the Court is seriously deprecated. It is a conduct unbecoming of a police officer, which is exhibited by him in repeatedly disobeying the directions of this Court. Because of his inaction and not attending the Court pursuant to the direction given by this Court, the proceedings before this Court are stalled.

4. Learned APP, on instructions, submit that the papers are now misplaced in the police station and as they are not traced that investigation officer could not remain present before the Court today. Said explanation further aggravates the contumacious conduct of the police officer. Misplacing the official record of the case in the police station clearly amounts to negligence on his part in discharging his official duties. Therefore, Mr.Abhay Soni, Deputy Commissioner of Police, Zone-II, Baroda, who is superior officer, shall take appropriate

action against the erring officer on two counts, (i) disobeying the direction of the Court and not being present before the Court with necessary papers and (ii) for misplacing official record of the case, which is a clear case of negligence on his part and place the proceedings before the Court in proof of taking appropriate departmental action against him in this regard.

5. In fact, when the Court is about to issue non-bailable warrant to secure his presence, learned APP requests stating that she take it to the notice of his superior officer and not to issue non-bailable warrant against him. Considering her request, the Court is desisting from issuing non-bailable warrant even though he has exhibited the conduct, which is unbecoming of a police officer before the Court.

6. At the request of learned APP to produce necessary papers before the Court by the next date of hearing and to seek instruction whether permission is accorded to file "A" summary report before the Court by the concerned officer or not, stand over to 14.2.2024. To be listed on the top of the Board. On that day, learned APP shall place on record papers of action initiated against the investigation officer on departmental side.

(CHEEKATI MANAVENDRANATH ROY, J)

R.S. MALEK