

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

=====

BHARATKUMAR BALMUKUND PARIKH

Versus

STATE OF GUJARAT & 1 other(s)

=====

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

MS MAITHILI MEHTA, APP for the Respondent(s) No. 1

=====

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

Date : 14/02/2024

ORAL ORDER

1. Pursuant to order dated 02.02.2024 passed by this Court directing the Deputy Commissioner of Police, Zone-II, Vadodara (DCP) to take appropriate action against the erring officer for disobeying the directions of this Court and not being present before the Court with necessary papers and for misplacing the official record of the case, learned Additional Public Prosecutor for the first respondent – State, has produced two show-cause notices issued by the DCP to the Police Inspector, Gotri Police Station, Vadodara (PI)

along with copy of explanation given by the said PI. The same are taken on record. She submits that the explanation is under consideration and appropriate action will be initiated within a short period of time.

2. The learned Additional Public Prosecutor also submits that earlier Police Inspector has filed the 'A' Summary report stating that as the accused are not available in the city that they could not be arrested. The 'A' Summary is not ordered. When questioned, whether investigation of the case is completed or not, it is stated that in view of the interim order passed by the Court not to take coercive steps, that Charge-sheet is not filed even though the investigation is completed.

2.1 She further submits that the accused are now available for arrest.

3. This Court is at loss to understand as to how earlier officer has filed the 'A' Summary on the ground that accused are not available for arrest. If the accused are not available for arrest, he has to file Charge-sheet and then obtain NBW against the accused. He is not supposed to file 'A' Summary. It is an irregular and illegal procedure followed by him. Therefore, the DCP is also directed to inquire into the matter as to how and why, the previous PI has filed the 'A' Summary on the ground that the accused are not available for arrest and take appropriate action against him, who is the erring official.

4. The record further reveals that even though interim order not to take coercive steps was passed, this Court by an order dated

04.08.2014 permitted the IO to proceed with the investigation.

5. The series of events as noticed from the record clearly show that the police officers have committed various errors in this matter, which resulted into delay in filing the Charge-sheet in this case. It is a fit case where the DCP being a superior officer, has to take appropriate disciplinary action against all the erring officers in this matter. This is a classic case which clearly illustrates the laches, negligence, dereliction of duty and misconduct by various police officers, which resulted into inordinate delay in completing the investigation and filing the Charge-sheet in this case. Official records are also misplaced and now, it is stated that the records are traced after the earlier order dated 02.02.2024 was passed by this Court. Therefore, the Court has to doubt the credentials of the erring police officers herein.

6. Stand over to **21st February 2024** for filing the report of action that is taken against the present police officer who has offered his explanation to the show-cause notices that are given and also to place on record the action taken against the previous PI who filed the 'A' Summary stating that the Charge-sheet could not be filed as that the accused are not available for arrest.

6.1 At the request of learned Additional Public Prosecutor, permission to file the Charge-sheet is accorded.

[Cheekati Manavendranath Roy, J.]

hiren
/6-7