IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC. APPLICATION (FOR QUASHING & SET ASIDE FIR/ORDER) NO. 11732 of 2014

FOR APPROVAL AND SIGNATURE:
HONOURABLE MR.JUSTICE P. M. RAVAL
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Approved for Reporting	Yes	No
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CHIMIBEN WD/O RAMJIBHAI SOMABHAI (Petition abated qua applicant no. 1) & ORS.
Versus
STATE OF GUJARAT & ORS.
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Appearance:
ABATED for the Applicant(s) No. 1
MR RR MARSHALL, SR ADVOCATE with MR AB MUNSHI(1238) for the Applicant(s) No. 2,3,4,5,6,7
MR KV SHELAT(834) for the Respondent(s) No. 3
MR ROHAN SHAH, APP for the Respondent(s) No. 1
RULE SERVED for the Respondent(s) No. 2
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CORAM:**HONOURABLE MR.JUSTICE P. M. RAVAL**

Date : 06/07/2026

ORAL JUDGMENT

A] INTRODUCTION:

1. This application under Section 482 of Criminal

Procedure Code, 1973 (the Code) is filed by the applicants praying to quash the FIR being C.R. M.Case No. 1 of 2014, lodged before Dumas Police Station, Dist.: Surat City for the offences punishable under Sections 406, 420, 465, 467, 468, 471, 120B, 114 and 34 of the Indian Penal Code, 1860 (IPC).

2. The procedural matrix indicates that *de facto* complainant (respondent No. 3) had preferred Criminal Misc. Application No. 437 of 2013 before the learned Chief Judicial Magistrate, Surat. By an order dated 25.07.2014, the learned Magistrate directed that the complaint be registered as an offence and investigated under Section 156(3) of the Code. This directive subsequently crystallized into the registration of the impugned FIR. The dispute centers around a parcel of joint family ancestral property following the demise of the complainant's father, who passed away intestate on 25..06.1981.

B] GRAVAMEN OF THE COMPLAINT:

3. Father of the *de facto* complainant expired intestate on 25.06.1981 and the applicant Nos. 2 to 6, who are close relatives, though *de facto* complainant did not relinquish any right in the joint family property and though did not execute any document to that effect, in connivance with each other and the other co-accused, by creating a forged Partition Deed

dated 10.12.2002 and getting notarized the same on 20.12.2002 and based thereon, sold the joint family property. Further, it is also alleged that though neither the *de facto* complainant nor her sisters ever served, signed or thumbed Section 135D Notice, and that, one of the sisters namely Bebiben was already expired on 25.12.2002, the said Notice, which is dated 04.07.2003, bears her signature also and thus, the applicant Nos. 2 to 6 grabbed her property by creating forged and fabricated Partition Deed, for which, the FIR in question came to be filed.

C] SUBMISSIONS ON BEHALF OF THE CONTESTING PARTIES:

4. Heard, Mr. R. R. Marshall, Senior Counsel, assisted by learned advocate Mr. A. B. Munshi, for the applicants, learned Additional Public Prosecutor Mr. Rohan Shah for the respondent No. 1 – State and learned advocate Mr. K. V. Shelat for the respondent No. 3 - *de facto* complainant, at length.

I) SUBMISSIONS OF THE APPLICANTS:

4.1 Mr. R. R. Marshall, learned Senior Counsel appearing for the applicants, raised the following contentions:

4.1.1 **Civil Dispute Cloaked as Criminal:** The dispute is purely civil, involving the partitioning and devolution of ancestral joint family property. It has been artificially colored with criminal allegations to bypass the law of limitation.

4.1.2 **Scientific Refutation of Forgery:** The foundational allegation that the applicants forged the complainant's signature on the Notice under Section 135D of the Bombay Land Revenue Code, stands entirely demolished by the Forensic Science Laboratory (FSL) report. The independent expert evaluation confirms the signature belongs to the complainant.

4.1.3 **Unconscionable Delay and Afterthought:** The partition and subsequent sale of the property took place way back in the year 2002. The criminal machinery was motioned for the first time in 2013, representing an unexplained and exorbitant delay of 11 years, driven purely by the commercial appreciation of the land.

4.1.4 **Judicial Consistency and Parity:** Special Civil Suit No. 447 of 2012 and parallel RTS revenue proceedings are pending before competent civil forums. Crucially, the coordinate Bench, *vide* judgment and order dated 30.06.2023 passed in Criminal Misc.

Application No. 12734 of 2014 quashed the FIR impugned herein *qua* original accused No. 10 namely Keyush Jitendrabhai Sadiwala, who is an Advocate, allegedly, identified the signatories of the Partition Deed dated 20.12.2002. Moreover, an FIR being C.R. No. I-11/2014 was filed before Dumas Police Station, Surat City for the offences punishable under Sections 465, 467, 468, 471, 120B, 166, 167, 171, 181, 182, 191, 192, 193, 196, 199 and 200 of the IPC relating to some parts of the property in question by the daughter of applicant No. 1 namely Bhanuben against some of the applicants herein and the coordinate Bench, by judgment and order dated 18.03.2026 passed in Criminal Misc. Application No. 4921 of 2014 quashed the said FIR. Accordingly, it is stated that when present FIR *qua* original accused No. 10 and one another complaint, as referred to herein above, *qua* some parts of the subject property herein which was filed against some of the applicants herein, is already quashed by the coordinate Bench of this Court only, the FIR impugned herein, also required to be quashed.

II. SUBMISSIONS OF RESPONDENTS – STATE AS WELL AS THE *DE FACTO* COMPLAINANT:

4.2 Mr. Rohan Shah, the learned Additional Public Prosecutor appearing for the State and Mr. K. V. Shelat, learned advocate appearing for the *de facto* complainant, submitted the following:

4.2.1 **Presence of Factual Anomalies:** The investigation reveals a serious irregularity in the public records. The statutory revenue Notice under Section 135D of the Gujarat Land Revenue Code is dated 04.07.2003, yet it bears the signature of a sister, Bebiben, who had admittedly passed away on 25.12.2002.

4.2.2 **Denial of Relinquishment:** The *de facto* complainant never executed any relinquishment deed or Partition Deed in favor of the applicants, nor did she sign any such documents nor voluntarily did give up her undivided share in the estate of her late father.

4.2.3 **Systemic Fraud:** The applicants, more particularly, applicant Nos. 2 to 6, being close relatives, acted in deep-seated connivance with one another to grab the joint family property by creating false, backdated documents, thereby defrauding the female heirs.

4.2.4 **The Dead Sister's Signature as Proof:** The fact that a Section 135D revenue Notice was executed with the signature of a deceased sister proves that the applicants created fraudulent records. The complainant was entirely unaware of these transactions, meaning the delay in filing the complaint is fully justified.

4.2.5 **Triable Issues:** The presence of a dead person's signature on a statutory public document provides *prima facie* evidence of forgery and conspiracy, which can only be verified through a full-fledged trial where evidence can be tested under cross-examination.

4.2.6 **Exercise of Power Sparingly:** It was urged that since the allegations disclose a *prima facie* case of fabricated paperwork, this Court should exercise restraint and decline to stifle the investigative process at this preliminary stage.

D] REASONING AND SECTION-BY-SECTION ANALYSIS:

5. The Societal Context: Coparcenary Rights and Real Estate Pressures:

5.1 To understand the true nature of this dispute, the Court must look at the broader social and economic realities behind family property litigation. Over the past few decades, Indian property jurisprudence has undergone a significant transformation, particularly with the progressive recognition of a married daughter's equal coparcenary rights in ancestral estates. Concurrently, urban centers like Surat have experienced an unprecedented boom in real estate values. While the expansion of gender-equal property rights is a monumental legal milestone, it has inadvertently triggered a wave of retrospective litigation. Family property arrangements, oral partitions, and relinquishment made in good faith decades ago are now frequently reopened when land values multiply. When these claims are barred by the strict limitation laws of civil Courts, frustrated litigants often turn to the criminal justice system. By adding a criminal element to a stale inheritance dispute, they seek to bypass the civil law of limitation and use the threat of prosecution as a leverage mechanism to extract financial settlements. When a criminal complaint is filed after a massive delay, the Court must look past the emotional narrative and verify whether the specific statutory elements of the alleged offences are actually met.

6. Preliminary contention of the applicants:

6.1 Dealing preliminary contention of the learned senior advocate for the applicants first that once learned Magistrate orders inquiry under Section 210 of the Criminal Procedure Code, 1973 (the Code) and thereafter, passing of order to register the FIR, which is impugned herein, is not permissible in law, inasmuch as, it amounts to taking cognizance of the case, is not tenable for the reason that indisputably, the *de facto* complainant, had already approached the Commissioner of Police prior in point of time and that, it was also directed to submit a report and thereafter, such an order was passed, which, in no way, can be said to be taking cognizance of the offence. Thus, the said contention is hereby rejected.

7. Section 135D Notice Anomaly and Complainant's Conduct:

7.1 The *de facto* complainant bases her case of criminal conspiracy on the Section 135D Notice dated 04.07.2003, which contains the signature of her deceased sister, Bebiben as well as denial of her own signature. While the signature of a deceased individual on a statutory Notice is an administrative irregularity, a logical and legal analysis reveals that this fact does not support the criminal charges against the applicants. The investigation reveals a striking contradiction in the complainant's behavior that undermines the credibility of her case:

<u>8. The *de facto* complainant was herself a joint signatory to that very same Section 135D Notice in July 2003</u>:

8.1 As Bebiben's real sister, the complainant knew that her sister had passed away seven months prior. Despite this direct knowledge, she signed the Notice alongside her sister's name and allowed the revenue authorities to finalize the mutation entry without a single objection.

8.2 This active participation completely eliminates the element of *mens rea* (guilty intent) required for a criminal offence. If the applicants had engineered a secret fraud to keep the complainant in the dark, she would not have been actively signing the mutation papers alongside them. Her signature on both the 2002 Relinquishment/Partition Deed and the 2003 revenue Notice (scientifically verified by the FSL) shows she was fully aware of the family arrangement. Moreover, FSL report also indicates that none of the applicant Nos. 2 to 6 herein had signed Section 135D Notice.

8.3 Her 11 years' silence indicates that the allegation regarding her deceased sister's signature is a strategic afterthought, brought forward a decade later to inject fraud into a valid transaction. If any wrong was committed regarding Bebiben's signature, it was a matter for Bebiben's direct heirs or a procedural violation for the revenue authority and it does not give the complainant a basis to revive her own expired civil claims. Even otherwise, revenue entries are only for fiscal purpose and the claim of ownership cannot be decided based on revenue entries.

<u>9. Quashing of present FIR and one another FIR by the coordinate Bench *qua* some of the accused / applicants</u>:

9.1 The coordinate Bench, *vide* judgment and order dated 30.06.2023 passed in Criminal Misc. Application No. 12734 of 2014 quashed the impugned FIR *qua* original accused No. 10. Moreover, while record reveals that no other sister challenged the said transaction, it is submitted that an FIR being C.R. No. I-11/2014 was filed before Dumas Police Station, Surat City for the offences punishable under Sections 465, 467, 468, 471, 120B, 166, 167, 171, 181, 182, 191, 192, 193, 196, 199 and 200 of the IPC relating to some parts of the property in question by the daughter of applicant No. 1 - Bhanuben against some of the applicants herein and the coordinate Bench, by judgment and order dated 18.03.2026 passed in Criminal Misc. Application No.

4921 of 2014 quashed the said FIR. Moreover, Special Civil Suit No. 447 of 2012 and parallel RTS revenue proceedings are pending before competent civil forums.

E] STATUTORY DECONSTRUCTION OF THE INVOKED IPC SECTIONS:

10. To determine if the criminal prosecution can legally continue, it must be examined whether the essential ingredients of each section invoked in the FIR are satisfied:

10.1 **Section 406 (Criminal Breach of Trust):** The primary requirement for an offence under Section 405/406 is the "entrustment" of property or control over it, followed by a dishonest misappropriation or conversion by the accused for their own use. In a dispute over ancestral property among co-sharers where a Relinquishment Deed has been executed, there is no entrustment. Because the FSL report confirms the complainant signed the 135D Notice, there is no dishonest misappropriation. The complainant has never raised dispute till 2013 that her sister has not signed 135D Notice but for the first time by way of the complaint has disputed even her signature in Deed as well as 135D Notice. The dispute involves a determination of civil shares, which does not attract

Section 406.

10.2 **Section 420 (Cheating and Dishonestly Inducing Delivery of Property):** Under Section 415/420, the prosecution must show that the accused practiced deception from the very inception of the transaction, fraudulently inducing the victim to part with property. The FSL report confirms the complainant signed the 135D Notice in year 2003. The non signing of Deed is also raised first time in 2013 and not even while signing the 135D Notice in 2003. Since she was a willing participant in these transactions, there is no evidence of deception or fraudulent inducement, and Section 420 is not attracted.

10.3 **Sections 465 & 467 (Forgery and Forgery of a Valuable Security):** These sections require the creation of a "false document" as defined under Section 464, made with the intent to cause damage, support a false claim, or commit fraud. The primary title-shifting document *i.e.* the 2002 Relinquishment Deed is claimed to be not signed by her and her sisters more particularly when none of the sister in their life time has raised such dispute. The subsequent Section 135D Notice is an administrative document for tax mutation purposes, not a valuable security. Because the complainant signed the Notice herself, it cannot be argued that a false document was created to deceive her.

10.4 **Section 468 (Forgery for Purpose of Cheating):** This offence requires a forgery to be committed with the specific intent to cheat. Since the primary document transferring the property is genuine and the complainant was a signatory to the subsequent revenue Notice, the charge of forgery fails, and Section 468 cannot stand.

10.5 **Section 471 (Using as Genuine a Forged Document):** This section punishes someone who fraudulently uses a forged document as genuine, knowing it to be fake. Since the complainant was a co-signatory to the Section 135D Notice in 2003 and remained silent for 11 years, she cannot claim the applicants used the document to deceive her.

10.6 **Sections 120B, 114, and 34 (Criminal Conspiracy, Abettor Present, and Common Intention):** These sections establish joint liability and inchoate offences. They do not constitute independent substantive crimes but apply when individuals act together to commit an offence. Since the primary charges of cheating, breach of trust, and forgery lack their essential statutory ingredients, these vicarious liability sections have no legal basis to stand on.

F] ULTIMATE FINDINGS AND CONCLUSION:

11. When filtered through the principles of ***State of Haryana v. Bhajan Lal [AIR 1992 SC 604]*** and the four-step framework from ***Pradeep Kumar Kesarwani v. State of Uttar Pradesh [2025 INSC 1095]***, this case fails to justify a criminal trial:

11.1 The FSL report confirming the complainant's signature on the 135D Notice of year 2003 constitute clear scientific evidence.

11.2 This material directly refutes the allegations of fraud and forgery in the FIR.

11.3 The prosecution cannot dispute the complainant's long standing signature and her 11-year silence.

11.4 Allowing this trial to proceed would be a clear abuse of the Court process, permitting a civil inheritance dispute over appreciated land values to be fought in a criminal Court.

11.5 Not challenging the arrangement deed /relinquishment deed even when her sister was alive also creates doubt regarding the authenticity of the FIR.

11.6 Forcing the parties to undergo a full-fledged criminal trial when the essential elements of the alleged offences are entirely missing would be an exercise in futility. The dispute is purely civil, and using criminal proceedings as a pressure tactic to force commercial negotiations cannot be permitted.

12. Consequently, this application succeeds and is hereby **allowed**. The First Information Report registered as **C.R. M.Case No. 1 of 2014** before the Dumas Police Station, District Surat City, along with all consequential criminal proceedings arising from it, is **quashed and set aside** *qua* the present applicants only.

12.1 Rule is made absolute in the aforementioned terms. Direct service is permitted.

[P. M. Raval, J.]

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