

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION NO. 8936 of 2021**

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RAKESH KAMLASHANKAR RAI

Versus

STATE OF GUJARAT

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Appearance:

MR P P MAJMUDAR(5284) for the Applicant(s) No. 1

YAGNESHKUMAR S JOSHI(8074) for the Applicant(s) No. 1

for the Respondent(s) No. 2

PUBLIC PROSECUTOR(2) for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE ILESH J. VORA****Date : 28/09/2021****ORAL ORDER**

1. Heard Mr.N.D.Nanavaty, learned Senior Counsel assisted by Mr. P.P.Majmudar, learned counsel for the Petitioner.

2. By way of present petition, the Petitioner prays for quashing of the FIR being C.R.No. 11200045210834 of 2021 registered with Umargam Police Station, Dist. Valsad, for the offence under Sections 354, 504 and 506(2) of Indian Penal Code, 1860.

3. Learned Senior counsel would submit that the impugned FIR is clearly an abuse of process of law and misuse of criminal machinery and the applicant has been falsely implicated in the alleged crime with malafide intention and to take revenge as the applicant has filed several complaints against the complainant for her alleged act and to obtain N.A permission illegally from District Development Officer, Valsad, on the basis of false and bogus documents and also for her alleged act of tampering with the government record. Therefore, as a counter blast, present FIR being lodged with an ulterior motive and pressurize the applicant to withdraw the complaints filed against her.

4. Learned Sr. Counsel drew the attention of this Court towards the observations made by a coordinate Bench of this Court vide order dated 18.08.2021 in CRMA No.12469/2021 (for anticipatory bail). Para 3 thereof reads as under:-

“3.Learned Senior Advocate Mr.Nanavaty has referred the averments and allegations made in the FIR in question and, thereafter, pointed out that an application was given by the present applicant against first informant before various authorities including the Collector. Learned Senior Advocate has also referred Page-35 i.e. the written complaint given before the Police Inspector of Umargam Police Station against the first informant. The said complaint was given on 05.07.2021. Learned Senior Advocate has thereafter referred the application given by the applicant against the first informant to the District Collector, Valsad. Written complaint was given against the present first informant for the alleged offences punishable under Sections 420, 467, 468, 471, 120B and 114 of the Indian Penal Code read with the provisions of the Gujarat Land Grabbing (Prohibition) Act. Copy of the said complaint is placed on record at Page-39 of the compilation. Learned Senior Advocate has further referred the complaint which was given before the Collector on 25.05.2021. Copy of the said complaint is placed on record at Page-53. After referring to the said written complaints given by the applicant against the first informant, it is contended that because of the disputes between the parties, the FIR is lodged against the present applicant. Learned Senior Advocate has also referred the provisions contained in Section 354 of the Indian Penal Code. It is urged that looking to the facts and circumstances of the present case, though two other FIRs are registered against the applicant, one in the year 2007 and another in the year 2014, case of the applicant be considered.”

5. Having considered the submissions made by learned Senior Counsel appearing for the applicant and material placed on record, it appears that on 05.07.2021 i.e on the date of alleged FIR, the applicant submitted a written complaint to Police Inspector, Umargam Police Station, under Sections 323, 504, 506(2) of IPC. Prior to this FIR, the application was filed before the District collector, Valsad on 01.04.2021 against respondent No.2 and her partners under the provisions of Gujarat Land Grabbing (Prohibition) Act, 2020.

6. In this background of the facts, let **Notice** be issued to the Respondents, returnable on **06.01.2022**. Learned APP waives Notice for the Respondent State. Meanwhile till next date, investigating officer shall not file chargesheet without prior permission of this Court, so far as present Petitioner is concerned. However, investigation may continue.

Direct Service is permitted.

(ILESH J. VORA,J)

SUCHIT