

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE  
FIR/ORDER) NO. 14969 of 2014****FOR APPROVAL AND SIGNATURE:****HONOURABLE MRS. JUSTICE M. K. THAKKER**

|                        |     |    |
|------------------------|-----|----|
| =====                  |     |    |
| Approved for Reporting | Yes | No |
|                        | ✓   |    |
| =====                  |     |    |

MANSUKHBHAI BHADABHAI BABARIYA

Versus

STATE OF GUJARAT &amp; ANR.

Appearance:

VISHAL K ANANDJIWALA(7798) for the Applicant(s) No. 1

MR. DIVYANG JOSHI with MR CHINTAN S POPAT(5004) for the  
Respondent(s) No. 2

MR. RONAK RAVAL, APP for the Respondent(s) No. 1

**CORAM:HONOURABLE MRS. JUSTICE M. K. THAKKER****Date : 08/04/2026****JUDGMENT**

- The present application has been preferred under Section 482 of the Code of Criminal Procedure, seeking quashment of the FIR registered at Talala Police Station, District Gir Somnath, being I-C.R. No. 84 of 2014 dated 10.08.2014, for the offence punishable under Section 306 of the Indian Penal Code, wherein the present

applicant has been arraigned as the sole accused.

- 1.1. As per the recitals of the FIR lodged by Jayshriben, wife of the deceased Ashwinbhai Jagani, it is alleged that the deceased was an agriculturist engaged in cultivation of land situated at Village Sim of Chitrod. The deceased had taken the agricultural land of the present applicant for cultivation for two seasons, i.e., a period of eight months, on the condition of payment of Rs. 2,30,000/-, and upon completion of the said period, possession of the land was to be handed over on or before Dev Diwali. It is further stated that the deceased initially cultivated a crop of sesame and, upon harvesting the first season crop, the agreed amount was to be paid to the applicant, whereafter the cultivation of soyabean was to be undertaken. As per the allegations in the FIR, the applicant directed the deceased to vacate the land prior to completion of the agreed tenure and, in that regard, also lodged a police complaint before the expiry of the eight-month period. It is further alleged that on 01.08.2014, the deceased left his residence at about 9:30 a.m., and thereafter, his dead body was found near the field of Mariamben at around 1:30 a.m. on

03.08.2014. The body was found in a well, floating on the water. From the wallet of the deceased, a suicide note contained in a rexine cover was recovered, wherein the name of the present applicant was mentioned, alleging that the applicant had threatened the deceased after receiving the amount and had instigated him to commit suicide. On the basis of the aforesaid allegations, the FIR came to be registered, which is the subject matter of challenge in the present proceedings before this Court.

2. Heard learned advocate Mr. Vishal K. Anandjiwala for the applicant, learned advocate Mr. Divyang Joshi with learned advocate Mr. Chintan S. Popat for the first informer and learned APP Mr. Ronak Raval for the State.
3. Learned advocate Mr. Anandjiwala, appearing for the applicant, submits that the deceased had taken the land for cultivation for a period of eight months covering two seasons, for which he had agreed to pay an amount of Rs. 2,30,000/-. It is submitted that initially, a sum of Rs. 50,000/- was paid, however, after harvesting the sesame crop, the deceased failed to make the remaining

payment. It is further submitted that the applicant had thereafter preferred a complaint before the concerned police station, pursuant to which a settlement was arrived at between the parties. As per the said settlement, the deceased agreed to pay an amount of Rs. 1,57,000/- on or before harvesting the soyabean crop, failing which he would not be permitted to take away the said crop. It is submitted that a copy of the complaint forming part of the record evidences such agreement on the part of the deceased. It is further contended that the deceased committed suicide on 01.08.2014, i.e., approximately twenty days after the said settlement. Learned advocate further submits that there is no material on record to indicate that any meeting took place between the parties during the intervening period, nor is there any evidence to suggest that the present applicant administered any threats to the deceased subsequent to the settlement arrived at before the police station. It is contended that even upon a plain reading of the FIR, no allegations are made out indicating that the applicant subjected the deceased to any harassment or cruelty which could have driven the deceased to commit

suicide. It is further submitted that there was no intention on the part of the applicant to instigate, provoke, or compel the deceased to commit suicide, and therefore, the essential ingredients of Sections 107 and 306 of the Indian Penal Code are not satisfied. Reliance is placed upon the decisions of the Apex Court in **Lalitbhai Vikramchand Parekh vs. State of Gujarat and Others**, reported in **2015 Supreme (Guj) 194**, and **Jaydeepsinh Pravinsinh Chavda and Others vs. State of Gujarat**, reported in **2024 Supreme (SC) 1169**, to contend that in order to attract the provisions of Section 306 of the IPC, it is imperative to establish that the accused had the requisite intention to instigate the deceased to commit suicide. In absence of any such instigation or mens rea, it is submitted that the continuation of the impugned proceedings amounts to an abuse of the process of law, and therefore, the impugned FIR deserves to be quashed by allowing the present application.

4. Per contra, learned advocate Mr. Divyang Joshi appearing with learned advocate Mr. Popat for the respondent submits that an agreement was initially

executed between the deceased and the applicant whereby the land was given for cultivation for a period of eight months upon payment of Rs. 2,27,000/-. It was agreed between the parties that at the time of execution of the agreement, an amount of Rs. 50,000/- would be paid, a further sum of Rs. 1,00,000/- would be paid upon harvesting of the first crop, and the remaining amount of Rs. 77,000/- would be paid on the occasion of Dev Diwali. It is submitted that although Dev Diwali was to fall on 06.11.2014, the applicant, prior thereto, preferred a complaint before the Police Sub-Inspector, Talala Gir, alleging non-payment of the agreed amount. Pursuant thereto, the deceased was called to the police station on 10.07.2014, where he paid an amount of Rs. 1,57,000/- and further agreed to pay Rs. 70,000/- before harvesting the soyabean crop. Learned advocate submits that the applicant, by invoking police force, subjected the deceased who is an agriculturist, to undue harassment. It is contended that despite the earlier understanding that the balance amount was payable on Dev Diwali, the deceased was coerced to make immediate payment upon harvesting the soyabean crop,

coupled with a threat that he would not be permitted to take the said crop in the event of non-payment. It is further submitted that the deceased, being an illiterate person with no knowledge of legal proceedings, was under continuous and immense pressure exerted by the applicant, which ultimately drove him to commit suicide. It is contended that at the present stage, when the charge-sheet has not yet been filed, the question as to whether there was any intention or mens rea on the part of the applicant to instigate the deceased to commit suicide cannot be conclusively determined. It is submitted that such aspects can only be examined by the learned trial Court upon appreciation of evidence during trial, and any interference at this stage would amount to stalling the investigation, thereby preventing the true facts from emerging on record. In view of the aforesaid submissions, it is prayed that the present application be dismissed.

5. Supporting the submissions advanced by the learned advocate for the complainant, learned APP Mr. Raval has also urged that the present application deserves to be dismissed.

6. Having considered the submissions advanced by the learned advocates for the respective parties, it appears that certain material dates and events require consideration for the purpose of adjudication of the present application. On 24.03.2014, an agreement was executed on a non-judicial stamp paper between the present applicant and the deceased, whereby the land bearing Survey No. 67/4A was given for cultivation for a period of eight months upon payment of Rs. 2,27,000/-. Upon perusal of the said agreement, which forms part of the record, it emerges that at the time of execution of the agreement, the deceased paid an amount of Rs. 50,000/-, which was duly acknowledged by the applicant. It was further agreed that an amount of Rs. 1,00,000/- would be paid upon harvesting of the first crop, and the remaining amount of Rs. 77,000/- would be paid on the occasion of Dev Diwali, i.e., on 06.11.2014. It further appears that the applicant preferred an application dated 26.06.2014 before the Police Sub-Inspector, Talala Gir, which is also part of the record, alleging that despite harvesting the first crop, the deceased had failed to make the payment as agreed, and therefore,

appropriate action be taken against him. Undisputedly, upon perusal of the contents of the said application, the same primarily reflects a breach of contractual obligations, however, the applicant appears to have resorted to the use of police force for recovery of the said amount. It further transpires that a settlement was arrived at between the parties before the police station, pursuant to which the deceased paid an amount of Rs. 1,57,000/-, and it was agreed that the remaining amount of Rs. 70,000/- would be paid, and only thereafter the deceased would be permitted to take the soyabean crop. It is further noted that on 01.08.2014, the deceased left his residence, and on 03.08.2014, his dead body was found in a well. A suicide note was recovered from his pocket, which was found in a wet condition and, upon being dried, revealed certain allegations made against the present applicant, which are as follows:-

*“A handwritten suicide note written on a page of a notebook was found from the wallet from the pocket of the pant, in which it was written at the upper part as, Mansukh Bhada Babariya, and written below that, (the above-mentioned person) frequently used to give threats, he used to come to me when I was alone and used to state that, I have men with me. The night's work will get*

*done and your name will come up during the day, nothing will happen to me. What do you consider me, I have filled the pockets of the ones wearing khaki clothes (i.e. Police). He used to tell me that, even if you tell anyone, I will find you from anywhere and I will bury you in the ground, thereafter, since I felt afraid, I have committed suicide. Sd/- Ashwin Hardas”*

- 6.1. Undoubtedly, though the applicant had initially agreed to resume possession of the land on 06.11.2014, it prima facie appears that subsequently the deceased was compelled to make payment of the outstanding amount prior to being permitted to harvest and take away the crop of sesame. Upon perusal of the FIR, it emerges that on the date of the incident, the cultivation of the crop was already undertaken by the deceased. The allegations indicate that the applicant was pressurizing the deceased to vacate the land despite such cultivation. In view of the aforesaid factual matrix, it cannot be said that there is no proximate nexus between the act of suicide and the events culminating in the settlement, which appears to have been arrived at with the intervention of the police force. The deceased, being an agriculturist and an illiterate person, is alleged to have been under continuous pressure and threat

exerted by the applicant, which ultimately led him to take the extreme step. At this stage, it would also be apposite to refer to the decision of the Apex Court in **Niharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and Others**, wherein it has been held that once information disclosing a cognizable offence is registered, the alleged mala fides of the informant would be of secondary consideration. What is of significance is the material collected during the course of investigation and the evidence that may be brought before the Court, which ultimately determines the culpability of the accused. Allegations of mala fides, by themselves, cannot constitute a ground for quashing of the proceedings.

6.2. In the suicide note, specific and categorical allegations have been made against the present applicant. In such circumstances, embarking upon an inquiry at this stage as to whether the applicant possessed the requisite intention to aid, instigate, or abet the commission of suicide would be premature and unwarranted. The investigation is still in progress and the charge-sheet is yet to be filed; therefore, the

question as to the existence of the requisite mens rea or intention on the part of the applicant cannot be conclusively examined at this stage. A plain reading of the FIR discloses prima facie material indicating a positive act on the part of the applicant, which may amount to instigation or aiding the commission of suicide, thereby satisfying the ingredients of Section 107 of the Indian Penal Code. It has been contended by the learned advocate for the applicant that there was no proximate or direct act on the part of the applicant at the time of the incident which could have compelled the deceased to commit suicide. However, in the considered opinion of this Court, the act of summoning the deceased to the police station, obtaining a written undertaking from him, and compelling him to make payment of the outstanding amount prior to harvesting the crop, despite the earlier agreement stipulating payment in the month of November cannot be overlooked. Notably, at the time of the incident, the cultivation of the crop was already in progress. In this backdrop, merely because the suicide occurred after a period of approximately twenty days from the said

incident, it cannot be held that there was no proximity between the alleged acts of the applicant and the commission of suicide. In the opinion of this Court, instigation is to be inferred from the attending facts and circumstances of each case, and it is not necessary that there must always be direct evidence establishing a clear and immediate nexus. There may be situations where the circumstances created by the accused are such that the victim is driven to a state of extreme frustration, rendering it difficult to continue with life. The judgment relied upon by the learned advocate for the applicant in **Lalitbhai Vikramchand Parekh** (*supra*) is distinguishable on facts. In the said case, the deceased was working as a part-time peon and was permitted to reside in a room allotted by the Chairman of the society on a common plot. A dispute arose between the society members and the family of the deceased regarding construction activities undertaken on the common plot adjacent to the said room. The matter escalated to the Rajkot Municipal Corporation, which issued notice to the son of the deceased, and a civil suit also came to be instituted. Thereafter, the

deceased along with his family members committed suicide by setting themselves on fire, leading to the registration of the FIR. In the peculiar facts of that case, the Apex Court held that the allegations were baseless and that continuation of proceedings under Section 306 of the Indian Penal Code would amount to an abuse of the process of law. However, the facts of the present case stand on a different footing and, therefore, the said decision would not render any assistance to the case of the applicant.

6.3. The second judgment relied upon by the learned advocate, namely in the case of **Jaydeepsinh Pravinsinh Chavda And Others** (*supra*), pertains to a matter before the Apex Court of India wherein a discharge application had been rejected and such rejection was confirmed by the High Court. The allegations therein related to offences under Sections 306, 498A and 114 of the IPC, inter alia contending that the deceased wife was subjected to physical and mental harassment, compelling her to return to her parental home, and thereafter to resume cohabitation upon persuasion by her parents. As per the recitals of the FIR

in the said case, approximately twelve months prior to the incident, the deceased had informed her father that the accused had sold her ornaments, being her *Stridhan*, and had subjected her to continuous physical and mental cruelty. In the said factual background, the Apex Court held that, for the purpose of attracting an offence under Section 306 IPC, the prosecution must establish that the accused had abetted the commission of suicide. Such abetment must satisfy at least one of the conditions stipulated under Section 107 IPC, namely: (i) instigation or encouragement to commit suicide; (ii) engagement in a conspiracy to ensure commission of such act; or (iii) intentional aid or conduct directly leading the deceased to take her own life.

7. In the present case, it transpires that approximately twenty days prior to the incident, the applicant had allegedly invoked police force for settlement of a dispute arising out of an alleged breach of contract and had compelled the deceased to make payment prior to harvesting the sesame crop. The deceased, being a poor agriculturalist, is stated to have left behind a suicide note attributing harassment to the present applicant.

8. In the above circumstances, and considering that the investigation is still not completed, this Court is of the view that it cannot be concluded at this juncture that, continuation of the proceedings would amount to an abuse of the process of law. The material on record, prima facie, warrants further investigation. Hence the application does not require to be entertained.
9. Resultantly, this application stands dismissed.
10. Interim relief, if any, stands vacated forthwith.
11. Rule is discharged.

NIVYA A. NAIR

**(M. K. THAKKER,J)**