

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 123 of 2015**

=====

SHAILENDRA GHANSYAMSINH JHALA....Applicant(s)

Versus

STATE OF GUJARAT & 1....Respondent(s)

=====

Appearance:

MR.S.V.RAJU, LEARNED SENIOR COUNSEL with MR ND GOHIL,
ADVOCATE for the Applicant(s) No. 1

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

=====

CORAM: **HONOURABLE MR.JUSTICE VIPUL M. PANCHOLI**

Date : 12/01/2015

ORAL ORDER

1. Heard learned Senior Counsel Shri S.V.Raju with learned advocate Shri N.D.Gohil for the petitioner and learned APP Ms.Maithili Mehta for respondent No.1-State of Gujarat.

2. Learned Senior Counsel Shri Raju referred to the documentary evidences produced on record and pointed out that petitioner who is original accused No.2 in the impugned FIR, referred to the documents produced with the petition and pointed out that registered Banakhat is executed by accused No.1 in favour of the petitioner-accused No.2 on 24.07.2014. Learned counsel further pointed out the civil proceedings initiated by the respondent No.2-original complainant. The

possession of the land was handed over to the petitioner No.2 on 24.07.2014.

3. Learned counsel further referred to the civil proceedings being Special Civil Suit No.401 of 2014 initiated by the respondent No.2 against the petitioner and original accused No.1 and also referred to the order dated 15.09.2014 passed by this Court in First Appeal No.3027 of 2014, whereby, this Court has granted order of status quo. Thus, the learned counsel submitted that the civil proceedings were initiated by the respondent No.2 on 30.07.2014 and the impugned FIR is filed on 22.12.2014. Therefore, it is nothing but a gross abuse of process of the Court. Learned counsel further submitted that ingredients of the offenses punishable under Section 406, 420, 465, 467, 468 and 471 of Indian Penal Code are prima-facie not made out in the impugned FIR, which is filed against him.

4. In view of the aforesaid submissions, issue **NOTICE**, returnable on 09.02.2015. In the meantime, ad interim relief in terms of para 8(B). Direct service is permitted.

ANKIT

(VIPUL M. PANCHOLI, J.)