

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 4605 of 2015

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KUNJAL CHANDRAKANT MEHTA & 1....Applicant(s)

Versus

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

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Appearance:

MS TEJAL A VASHI, ADVOCATE for the Applicant(s) No. 1 - 2

MR ANUJ K TRIVEDI, ADVOCATE for the Respondent(s) No. 2

MR RONA K RAVAL, ADDL. PUBLIC PROSECUTOR for the Respondent(s)

No. 1

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CORAM: HONOURABLE MS JUSTICE SONIA GOKANI

Date : 05/07/2016

ORAL ORDER

1. This Court vide its order dated 6.8.2015 while issuing notice had directed investigating agency not to take any coercive action against the petitioners while permitting the investigation to be carried out. This order periodically has been extended and has been continuously in operation till date.

2. Learned advocate Mr. Anuj Trivedi appearing for

the original complainant respondent No.2 has urged that the police after investigation has laid the chargesheet qua one of the accused. The investigation, as per his instructions, is though qua present petitioners also, in wake of the order of this Court, the police is not laying the chargesheet. He, therefore, has sought modification of the said order. Learned advocate has further submitted that the direction of not taking coercive steps would not mean that the chargesheet cannot be laid against the petitioners. More particularly, when the Court had permitted the investigation to continue.

3. Learned advocate Mr. Jal Unwala appearing with the learned advocate Ms. Tejal Vashi appearing for the petitioners has urged that laying of the chargesheet would amount to prejudicing right of the petitioners, as it is going to be a step towards the trial, therefore, has requested the Court to examine the papers of chargesheet and then only allow the officer to lay the

chargesheet. It is further urged that she should also be given the copy so that necessary amendment can be made in the main petition, which would entitle the petitioners to challenge the chargesheet.

4. Learned Additional Public Prosecutor for respondent No.1 submits that he requires instructions from the concerned officer. However, he has urged that officer concerned should be permitted to file the chargesheet before the appropriate Court.

5. Having heard learned advocates on both the sides and having also considered the order passed by this Court, if the investigation has continued and culminated into laying of the chargesheet qua one of the accused and if the Investigating Officer has already finalized his report qua the present petitioner as well, he is permitted to lay it before the Court concerned on furnishing a copy to this Court as also to the parties of this litigation. Such laying of chargesheet shall be

subject to the outcome of the present petition.

6. Let the petitioner remain present on 14.7.2016 before the concerned Court between 11:00 to 1:00 p.m. when the Investigating Officer shall also be present for laying the final report, if it is already finalized. In the event of any difficulties, the parties are at liberty to approach this Court.

7. Issue rule returnable on 30.8.2016. Ms. Chetna Shah, learned Additional Public Prosecutor waives service of notice for and on behalf of respondent No.1-State. Interim protection granted to the petitioner shall continue till the returnable date.

8. Petitioners if are desirous of amending the petition after going through the chargesheet, such permission is granted.

(MS SONIA GOKANI, J.)

SUDHIR