

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION NO. 16046 of 2019****With****R/SPECIAL CRIMINAL APPLICATION NO. 8098 of 2019**

=====

BHUPENDRABHAI SHANTILAL SHAH**Versus****STATE OF GUJARAT**

=====

Appearance in Cr.M.A. No.16046 of 2019:**MR YS LAKHANI, SR. ADVOCATE WITH MR PRAVIN GONDALIYA(1974)**
for the Applicant(s) No. 1

for the Respondent(s) No. 2

MR PRANAV TRIVEDI, APP (2) for the Respondent(s) No. 1**Appearance in Sp.Cr.A.No.8098 of 2019****MR NISHIT P GANDHI for the Applicant(s) No. 1**

for the Respondent(s) No. 2

MS SHRUTI PATHAK, APP (2) for the Respondent(s) No. 1

=====

CORAM: HONOURABLE MR.JUSTICE S.H.VORA**Date : 22/08/2019****ORAL ORDER**

Prima facie, it appears that impugned FIR is filed with reference to one transaction pertaining to house No.62/B, which was subject matter of Civil Suit No.321 of 2015. The complainant herself entered into one sale agreement with the applicant – Shri Bhupendrabhai Shah for consideration of Rs.31 lakhs on 09.01.2014. Thereafter, the complainant herself and the applicant – Shri Bhupendrabhai Shah executed Memorandum of Understanding for movable property lying in said house No.62/B. Said agreement ended into litigation being Civil Suit No.321 of 2015, where, the Court passed decree in favour of the applicant – Shri Bhupendrabhai Shah on 07.11.2015. Thereafter, decreed passed in the said suit came to be executed by the Executing Court by executing sale deed

in favour of the applicant – Shri Bhupendrabhai Shah. Thereafter, the complainant lodged one complaint on 24.01.2017 for almost identical allegations as made in the impugned FIR and after investigation, said FIR ended into closure report as per report dated 20.02.2017. No any other action is taken in respect to said closure report and not only that it is suppressed in the impugned FIR. Thereafter, the complainant filed one suit being Civil Suit No.21 of 2017 through her power of attorney – Mr.Abbasi Katawala, which ultimately came to be withdrawn on 18.11.2017. The conduct of the complainant also indicates that she remained silent all throughout the proceedings in respect of consideration amount received by her by cheque at the time of execution of sale agreement.

In light of this position, present applications deserve consideration. Issue **Notice** returnable on 20.11.2019. Learned APP waives service of notice on behalf of respondent – State in respective applications. Meanwhile, no coercive steps shall be taken against the applicants. However, investigation to proceed in accordance with law.

(S.H.VORA, J)

SATISH