

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 11395
of 2025

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UTKARSHBHAI RAMESHBHAI PATEL & ORS.

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR PREMAL R JOSHI(1327) for the Applicant(s) No. 1,2,3,4,5

MR. SHAHEZADHUSAIN M SHAIKH(16385) for the Applicant(s) No.
1,2,3,4,5

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

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 01/09/2025

ORAL ORDER

- 1) By way of present petition under Articles 226 and 227 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, the petitioners have sought quashing of the FIR being **CR No.11191038250511 of 2025 registered with Vatva Police Station, Ahmedabad City**, for the offence punishable under Section 316(2) of the Bharatiya Nyaya Sanhita, 2023 (for short "BNS").
- 2) Learned Advocate for the petitioners has submitted that the alleged incident took place between 18.05.2024 to 09.07.2025, when the petitioners have purchased goods worth of Rs.31,97,860/- from the complainant and after receiving the said goods the petitioners have paid Rs.10,00,000/- and balance amount of Rs.21,97,860/- is yet to be paid and to recover the said outstanding amount the complaint is filed.

- 3) Learned APP has opposed the present petition stating that notice under Section 35 of the BNSS came to be issued and the investigation is at nascent stage. Hence, she has requested to dismiss the present application.
- 4) Heard learned Advocate for the petitioners and learned APP for the State.
- 5) *Prima facie* the transaction in question is commercial one and to recover the amount the impugned complaint came to be lodged. Initially, party payment was made by the petitioners. Therefore, considering the nature of allegations and transaction and in view of judgment of the Apex Court in case of **Delhi Race Club (1940) Ltd. & Ors. vs. State of Uttar Pradesh & Anr.** reported in **2024 INSC 626** and **Rikhab Birani & Anr. vs. State of Uttar Pradesh & Anr.** reported in **2025 INSC 512**, petition deserves consideration.
- 6) **RULE** returnable on **10.10.2025**.

Learned APP waives service of notice of Rule for and on behalf of respondent No.1 – State of Gujarat.

Respondent No.2 to be served through the concerned police station.
- 7) There shall be **no coercive steps against the present petitioners only**, however, the petitioners shall join the investigation. Direct service is permitted.

(HASMUKH D. SUTHAR,J)

ANKIT