

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 19009 of 2026**

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NITESHBHAI RAJBHA GADHVI

Versus

STATE OF GUJARAT & ANR.

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Appearance:

NANAVATI & CO.(7105) for the Applicant(s) No. 1

MR HARSHIT S BHATT(12874) for the Respondent(s) No. 2

MR MEET THAKKAR, ADDL.PUBLIC PROSECUTOR for the Respondent(s)
No. 1

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CORAM:HONOURABLE MRS. JUSTICE M. K. THAKKER

Date : 25/08/2026

ORAL ORDER

1. Learned advocate Mr. Nanavati submits that, as per the allegations made in the FIR, an agreement to sell was executed between the present applicant and the complainant on 01.12.2023. At the time of execution of the agreement to sell, the applicant had shown the Sata Khat executed between the original owner and the present applicant dated 25.11.2023, which was in operation upto 24.04.2024. It is submitted that, as per the agreement to sell, a certain amount was required to be paid by the complainant and, as per the allegations, despite receiving the said amount, the sale deed was not executed. It is submitted that, in respect of the same cause of action, a civil suit has been filed before the learned Civil Court, wherein the application for interim

injunction came to be rejected by the learned Court. It is further submitted that, at the time of execution of the sale deed, a public notice was issued by the original owner, pursuant to which no objection was raised by any person, and the caution notice issued by the complainant was duly replied to by the present applicant by issuing a notice. It is submitted that, by no stretch of imagination, can it be said that, from the very inception, the intention of the present applicant was not to execute the sale deed; rather, the sale deed could not be executed as the complainant had failed to pay the full consideration amount.

2. Learned advocate Mr. Brahmabhatt, appearing for respondent No.2, submits that the complainant had paid the sale consideration to accused Nos.1 and 2, including the original owners. It is submitted that, though a civil suit has been filed, when the commission of a cognizable offence is disclosed from the allegations made by the complainant in the impugned FIR, merely because a civil remedy is available, the impugned FIR cannot be quashed.
3. Considering the submissions made by the learned advocates for the respective parties, more particularly the allegations referred to in the FIR, it appears that the dispute between the parties pertains to the non-execution of the sale deed, in respect of which a civil suit has already been filed. The application for interim injunction filed by the complainant in the said suit has

also been rejected. It is further evident that, in the said suit, the complainant has also prayed, in the alternative, for refund of the sale consideration amount. In view of the aforesaid facts and circumstances, in the opinion of this Court, continuation of the impugned criminal proceedings would amount to an abuse of the process of law.

4. Prima facie, having regard to the facts and circumstances of the case, this Court is of the opinion that the matter requires consideration. Hence, **Rule.**
5. Learned APP Mr. Thakkar waives service of notice of Rule on behalf of the respondent-State, and learned advocate Mr. Brahmabhatt waives service of notice of Rule on behalf of respondent No.2.
6. Interim relief in terms of paragraph 6(C) is granted.

(M. K. THAKKER,J)

M.M.MIRZA

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: MUDDASAR MUSTAKBHAI MIRZA(HC01407), PRIVATE SECRETARY, at High Court of Gujarat on 31/08/2026 11:52:12