

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 18279 of 2025**

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VICTOR JHON FERNANDES

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR VATSAL H SHARMA(13941) for the Applicant(s) No. 1
MR.MINHAJ M SHAIKH(6847) for the Applicant(s) No. 1
MR RONAK RAVAL ADDITIONAL PUBLIC PROSECUTOR for the
Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI

Date : 09/09/2025

ORAL ORDER

- 1.Heard learned advocate Mr. Minhaj Shaikh,
appearing for the applicant.
- 2.Learned advocate Mr. Minhaj Shaikh pointed out
from the FIR that, at the relevant time, the
present applicant was a Police Inspector and the
complainant was a Police Constable. They were in
a relationship, had decided to marry, and
ultimately became intimate. However, thereafter,
the present applicant expressed his inability to

marry the complainant, which led to the registration of the FIR. It is, however, clearly admitted in the FIR itself that the present applicant and the complainant, on account of their relationship, were frequently intimate and they remained in constant touch with each other through a mobile messaging app, and the FIR further indicates that it was registered because the complainant came to know, prior to its registration, that the present applicant had married another police personnel. According to learned advocate Mr. Shaikh, the complainant is 41 years old and was mature enough to understand the consequences of the relationship and of becoming intimate. Despite this, she knowingly continued the relationship with the present applicant; therefore, their relationship can be said to have been consensual in nature. Consequently, the present applicant cannot be said to have committed an offence under Sections 376(2)(n) and 376(2)(a)(i).

3. In view of the above submissions and the

documents available on record, issue **NOTICE to the respondents, returnable on 4.11.2025.** The Learned Additional Public Prosecutor waives service of notice on behalf of Respondent No.1 – State. Direct service to Respondent No.2 through the concerned Police Station is permitted. In the meantime, although the investigation may continue, no coercive action shall be taken against the present applicants, and no charge-sheet shall be filed against them without the prior permission of this Court.

(NIRZAR S. DESAI,J)

Pallavi