

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 13685 of 2024**

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KAMLESHBHAI GOPALBHAI PAREKH & ANR.

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR SHALIN MEHTA, SENIOR ADVOCATE WITH MR. NISHIT P

GANDHI(6946) for the Applicant(s) No. 1,2

MS CHETNA SHAH, APP for the Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE SANDEEP N. BHATT**Date : 15/10/2024****ORAL ORDER**

1. The present petition is filed for the following prayers:

“13(A) YOUR LORDSHIPS may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or directions quashing F.I.R. being No.11216011240540 of 2024 registered at Infocity Police Station, Gandhinagar Dist.Gandhinagar (at ANNEXURE-A hereto) as well as all consequential proceedings pursuant thereto;

(B) During pendency and final disposal of the present petition, YOUR LORDSHIPS may be pleased to stay further proceedings of F.I.R. bearing No.11216011240540 of 2024 registered at Infocity Police Station, Gandhinagar,

Dist.Gandhinagar (at ANNEXURE-A hereto) and further be pleased to direct the policy authority/competent authority to forthwith release the petitioners from custody;

(C) Since the petitioners are in police custody, the affidavit in support of the petition may kindly be dispensed with;

(D) xxx”

2. Heard learned senior advocate Mr.Mehta for the petitioner and learned APP Ms.Shah for the respondent-state. Learned advocate Mr.Vatsal Patel has submitted that he has instructions to appear for the complainant and prayed for time. However, looking to the urgency involved in the present petition, the request for time is rejected.

3. Learned senior advocate Mr.Mehta has submitted that the present complaint itself is not maintainable in view of the fact that the complainant has sold away the land in question by way of a registered sale deed and by challenging that transaction, the substantial suit is filed by the present petitioner which is also pending for adjudication. Therefore, the complainant has no *locus*. Moreover, he has drawn attention of this Court to the fact that at the instance of the higher authority, though the complaint is registered at the Infocity police station, the investigation is carried out by the Local Crime Branch. He has made a specific allegation that

there is a direct involvement of some of the political workers against him and he has made written complaint on 29.8.2024 before the Superintendent of Police submitting that in presence of police, certain persons have threatened the present petitioner in the police station.

4. Learned APP Ms.Shah has opposed the prayers prayed for in this petition. She submitted that there is material available on the record which indicates that serious offences are committed by the present petitioner.

5. Considering the overall aspects of the matter and considering the fact that earlier also, this Court had an occasion to deal with the same issue in different proceedings whereby highhandedness on the side of the complainant is demonstrated, it is very strange and surprising in this matter that the FIR is registered before the Infocity police station and due to intervention of the higher officers, the officers of Local Crime Branch are also calling the petitioners for investigation. Under the circumstances, *prima facie*, it is found that there is abuse of process of law. Therefore, it requires consideration.

6. Rule returnable on 3.12.2024.

6.1 Interim relief in terms of paragraph 13(B) is granted to the extent that the F.I.R. bearing No.11216011240540 of 2024 registered at Infocity Police Station, Gandhinagar, Dist.Gandhinagar, annexed at Annexure-A to the petition, is stayed.

Direct service today is permitted.

(SANDEEP N. BHATT,J)

SRILATHA