

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 14646 of 2023**

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MAHESH GOVIND TRIVEDI THRO ABHISHEK MAHESH GOVIND TRIVEDI
Versus
STATE OF GUJARAT

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Appearance:

MR ND NANAVATI, SR. ADVOCATE, MR SHIVANG M SHAH(5916) for the
Applicant(s) No. 1,2
for the Respondent(s) No. 2
MR DM JAYSWAL, PUBLIC PROSECUTOR for the Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE J. C. DOSHI**Date : 08/11/2023****ORAL ORDER**

1. By way of this petition, filed under Article 226 of the Constitution of India, read with Section 482 of the Code of Criminal Procedure, the petitioner seeks quashment of the FIR No. 11205031230360 of 2023, registered with Mandvi Police Station under Sections 465, 467, 468, 471, 120B, 379 and 427 of the IPC.

2. Learned Sr. Advocate, Mr. N.D. Nanavati, appearing with learned Advocate, Mr. Shah, for the petitioners submitted that the allegations leveled against the present petitioner in the impugned FIR are to the extent that the present petitioner has sold out Bhandarwali agricultural land, admeasuring 13 acres, 33 gunthas, situated at Bhuj-Mandvi road. He took this Court through the allegations made qua the disputed land.

2.1 Learned Sr. Advocate Mr. Nanavati would further submit that one Ramalaxmi, who is the wife of one Ravishankar Trivedi had executed her last testament on 31.08.2001, which has superseded the earlier will, executed in the year 1956. It was further submitted that the Bombay High Court in Testamentary Suit no. 11 of 2012 in Testamentary Petition No. 724 of 2004 has granted probate of the said sale in favour of Mahesh Govind Trivedi, i.e. Petitioner No.1 herein. It was submitted that pursuant to the proceedings taken out before the concerned Civil Court, the concerned Executing Court put the present petitioner in possession of the land in question.

2.1.1 These submissions are canvassed to submit that the impugned FIR is filed on the false premise that Petitioner No.1 has prepared forged will to sell out the property of the Trust.

2.2 Learned Sr. Advocate Mr. Nanavati submitted that the petitioners have been granted anticipatory bail. However, the concerned IO is unnecessarily and repeatedly calling them for recording their statements and in fact, notice under Section 41A of the Code of Criminal Procedure dated 19.10.2023 is also issued, which is produced separately and the same is ordered to be taken on record. It was further submitted that the statement of Petitioner No.1, who is aged about 83 years, is already recorded by the police and now, statement of Petitioner No.2 only is required to be recorded. It was submitted that Petitioner No.2 is ready and willing to go before police on 20.11.2023.

3. Having heard the learned Sr. Advocate Mr. Nanavati, who took this Court through the record of the case and submitted that the Bombay High Court has granted probate in favour of the petitioner, on the basis of the will of Ramalaxmi Ravishankar Trivedi dated 31.08.2001 and on the strength of such order the petitioners have been put in possession of the land in question and what more appears from the impugned FIR is that one Pujari (Priest) of Mahadevji Pataleshwar Mandir Sarvajanic Trust, Mandvi, is the first informant and as such, his locus to file the impugned FIR is also under scanner. Thus, the above submissions would require consideration.

4. Let there be **RULE**, making the same returnable on **12th February, 2024**. Learned APP waives service for Respondent-State.

4.1 The investigation shall go on, but, the charge-sheet shall not be filed qua the present petitioner without the prior permission of this Court. However, it shall be open to the parties to make a request for early hearing in case of difficulty.

4.2 Further, Petitioner No.2 shall go before the PI, Mandvi Police Station on 20th December, 2023, and the concerned PI shall record his statement, **if required**, without fail.

4.3 Let a copy of this order be given to the learned APP.

UMESH/-

(J. C. DOSHI,J)