

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 14409 of 2023**

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KIRAN THAKORBHAI PATEL & ORS.

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR MAHMOOD A MADNI(5092) for the Applicant(s) No. 1,2,3

PETITION/APPEAL WITHDRAWN/DISMISSED for the Applicant(s) No. 4

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

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CORAM:HONOURABLE MR. JUSTICE SANDEEP N. BHATT**Date : 25/11/2024****ORAL ORDER**

1. Heard learned advocate Mr. Mahmood A. Madni for the petitioners, learned advocate Mr. Nayan L. Gupta for learned advocate Mr. Ashish M. Dagli, who has instructions to appear for the respondent – complainant and learned APP, Ms. Vrundha Shah for the respondent – State. Registry shall accept the Vakalatnama of learned advocate Mr. A.M.Dagli for the respondent – complainant.

2. Learned advocate Mr. Madni has submitted that the present FIR is nothing but abuse of process of law and the same is filed with a view to harass the present petitioners as well as a counterblast to the complaint filed by Gopaliben who is one of the petitioners and who has subsequently withdrawn the petition and also shown as accused in the

present FIR. He has submitted that this Court may take into consideration the fact that the dispute is essentially arising from the transaction related to the immovable property and dispute between near relatives of the family members, and *prima facie*, it transpires from the bare reading of the FIR that no case is made out against the present petitioners. He has further submitted that the petitioner No.3 - Rikin Kiranbhai Patel is residing in U.K. and the petitioner Nos.1 and 2, being parents of the petitioner No.3, are wrongly implicated in the proceedings by making reckless allegations, and also, they are senior citizen having been arrested unnecessarily under the guise of the present complaint. He has further submitted that the petitioners are already enlarged on anticipatory bail.

3. Learned advocate Mr. Gupta has submitted that *prima facie* case is made out against the present petitioners, considering the conduct of the present petitioners and also considering the role played by them, no interference is called for in the present matter.

4. Learned APP, Ms. Shah has also submitted that the Court may exercise the powers sparingly and the prayers made in the present petition should not be entertained, at this stage.

5. Considering the rival submissions made at the bar as well as considering the fact that essentially the grievance agitated by way of the present FIR is a counterblast and having a civil nature, which by way of the present FIR, is given criminal colour.

6. In view of the above, the matter requires consideration. Therefore, issue **Rule**, returnable on **21.01.2025**. Learned APP waives service of notice of rule for the respondent – State.

7. In the meantime, no coercive action shall be taken against the petitioner No.3 - Rikin Kiranbhai Patel. As the petitioner Nos.1 and 2 have already got the anticipatory bail, therefore, they will have to cooperate with the process of investigation, however, Investigating Agency shall not file charge-sheet without prior permission of this Court.

(SANDEEP N. BHATT,J)

SLOCK BAROT