

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR CONSENT QUASHING) NO.
27662 of 2025**

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JAGDISHBHAI DEVANANDBHAI MADAM

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR ASHISH M DAGLI(2203) for the Applicant(s) No. 1

MR MANAN MAHETA, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE VIMAL K. VYAS****Date : 16/01/2026****ORAL ORDER**

1. Learned advocate Mr.Abhishek K. Khuman appears and submits that he has instructions to appear on behalf of the respondent no.2 - complainant. Registry shall accept his vakalatnama.

2. By way of filing the present application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant-accused has prayed to quash and set-aside the judgment and order dated 05.07.2024 passed by the learned Additional Chief Judicial Magistrate, Rajkot, in Criminal Case No.10053 of 2023, for the offences punishable under Sections 465, 468 and 471 of the Indian Penal Code, 1860, and all other consequential proceedings arising pursuant thereto.

3. The facts leading to filing of the present application are stated to be as under:

3.1 The applicant is the original accused against whom the complaint came to be filed under Sections 465, 468 and 471 of the Indian Penal Code, 1860, and the impugned judgment and order dated 05.07.2024 has been passed by the Learned Additional Chief Judicial Magistrate, Rajkot, in Criminal Case No.10053 of 2013. The trial Court, after recording the evidence and hearing the parties, has convicted the present applicant for six months with a fine of Rs.15,000/-, and in default of payment of fine, to undergo simple imprisonment for 1 month.

3.2 Being aggrieved and dissatisfied with the judgment and order passed by the trial Court, the applicant preferred an appeal being Criminal Appeal No.522 of 2024 before the learned Sessions Court, Rajkot, challenging the order of conviction and sentence dated 05.07.2024, whereby the conviction order which has been suspended vide order dated 29.07.2024 has been continued till final disposal of the appeal.

3.3 However, during the pendency of the appeal, the dispute has been amicably resolved between the parties with the help of friends and family members and there is no ill will or grievance remain between them. Hence, the complainant does not have any objection if the Criminal proceedings are quashed and set aside by this Hon'ble Court, for which the complainant has also filed an affidavit in support of the averments made in the present application.

4. In the aforesaid facts, the complainant, who is personally present before this Court today, has produced his identity proof as well as the affidavit, which are ordered to be taken on record. In the said affidavit, the complainant has categorically stated that with the intervention of the friends and family members, the dispute between him and the applicant-accused has been amicably resolved and there is no ill-will or any grievance amongst them.

5. Heard learned advocate Mr.Mahesh Pujara appearing for the applicant, learned advocate Mr.Abhishek K. Khuman appearing for the respondent no.2- original complainant and the learned APP Mr.Manan Maheta appearing for the

respondent-State.

6. Learned advocate Mr.Mahesh Pujara has submitted that the dispute between the parties has been resolved by way of an amicable settlement with the intervention of the friends and family members. He has further submitted that the complainant has agreed to give consent for quashing of the criminal proceedings and he does not want to prosecute the applicant. Further, considering the nature of the dispute, it appears that no public policy is involved in the case. Strong reliance has been placed on the decision in case of ***Ramgopal Versus State of Madhya Pradesh reported in 2021 (0) AIJEL-SC 67811*** to submit that having regard to the nature of the offence and the fact that the parties have amicably settled their dispute and the complainant has willingly consented to the nullification of the criminal proceedings, the High Court can quash such proceedings in exercise of its inherent powers under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, even if the offences are non- compoundable.

7. Learned advocate Mr.Abhishek K. Khuman for the respondent no.2 - complainant, reiterating the facts of

settlement affidavit, has submitted that the complainant do not wish to prosecute the applicant and the dispute has been amicably resolved between the parties and the complainant has no objection if the application is allowed and the impugned judgment and order are quashed and set-aside..

8. The relevant paragraphs of the affidavit filed by the complainant – Girdharbhai Chaganbhai Kothiya, read thus :

"I say and submitted that I am aware about the conviction order and judgment dated 05.07.2024 passed by the Ld. Addl. Chief Judicial Magistrate, Rajkot, In Criminal Case No.10053 of 2013.

I say and submitted at present the Criminal Appeal No. 522 of 2024 filed by petitioner is pending before Ld. Sessions Court, Rajkot and during the pendency of criminal appeal the dispute between us is amicably resolved with the help of family members, as complainant and accuses both are relatives and having good cordial relations and now dispute is settled and I therefore now there is no ill will or grievance remain between us and all dispute is amicably resolved between us and therefore, I do not want to continue with my complaint further and therefore I earnestly urge this Hon'ble Court to terminate the proceeding as prayed by petitioner in the interest of justice."

9. Learned APP Mr.Manan Maheta has vehemently opposed the application mainly on the ground that once the conviction is awarded by the trial Court and confirmed by the Sessions Court, the power cannot be exercised at this stage under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, by this Court.

10. Thus, it appears from the aforesaid that to continue further with the proceedings pursuant to the impugned judgment and order would be a futile exercise and the same would amount to abuse of process of law.

11. Having heard learned advocates appearing for the respective parties as well as considering the facts and circumstances arising out of the present application and taking into consideration the decisions rendered in the cases of ***Gian Singh Vs. State of Punjab reported in 2012 10 SCC 303***, 3 Judge Bench of the Apex Court held in paragraph-61 as under:

“61.the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim’s family and the offender have settled the dispute. Such offences are not private in nature and have serious

impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

12. In case of State of **Madhya Pradesh Vs. Laxmi Narayan & Ors. reported in 2019 5 SCC 688**, it was held that:

“10(1) That the power conferred under Section 482 of the Code to quash the criminal proceedings for the noncompoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

(2) Such power is not to be exercised in those prosecutions which

involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

(3) Similarly, such power is not to be exercised for the offences under the special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

(4) xxx xxx xxx

(5) While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/ compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc.”

13. In light of the settled principle of law, it appears that the criminal proceedings involving non-heinous offences or where the offences are predominantly of a private nature, can be annulled irrespective of the fact that the trial has already been concluded or appeal stands dismissed against the conviction.

14. In the facts of the present case, the dispute is private in nature and the parties have voluntarily agreed to settle the dispute and there is no coercion or undue force on them for arriving at the settlement. The offence alleged cannot be said

to be serious in nature, quashing of which, would affect the public interest. Thus, it appears that continuing further with the proceedings pursuant to the impugned judgment and order would be a futile exercise and the same would amount to abuse of process of law. Hence, to secure the ends of justice, the impugned judgment and order, so also all other consequential proceedings arising pursuant thereto are required to be quashed and set-aside in exercise of the powers conferred under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

15. In the result, the application is allowed. The judgment and order dated 05.07.2024 passed by the learned Additional Chief Judicial Magistrate, Rajkot, in Criminal Case No.10053 of 2023, for the offences punishable under Sections 465, 468 and 471 of the Indian Penal Code, 1860, as well as all other consequential proceedings arising pursuant thereto are hereby ordered to be quashed and set-aside qua the applicant.

16. Rule made absolute. Direct service is permitted.

(VIMAL K. VYAS, J)

DEEPAK GEHLOT

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: DEEPAK GEHLOT(HC02361), ENGLISH STENO GRADE-II\, at High Court of Gujarat on 19/01/2026 11:23:03