

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC. APPLICATION (FOR CONSENT QUASHING)
NO.21006 of 2025

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SURESH HIRJI NAGDA
Versus
STATE OF GUJARAT & ANR.

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Appearance :

HARDIK J GAJJAR for the Applicant.

MR RONAK RAVAL, APP for the Respondent No.1.

MR NIRAV PARGI for the Respondent No.2.

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CORAM: HONOURABLE MR. JUSTICE NIRZAR S. DESAI

Date : 10/10/2025
ORAL ORDER

1. Heard the learned advocates appearing for the respective parties. Learned advocate Mr. Nirav Pargi states that he has an instructions to appear for the respondent No.2 - complainant. He is permitted to file his appearance forthwith.

2. **Rule.** Learned Additional Public Prosecutor as well as learned advocate appearing for the Complainant waive service of Rule on behalf of the respective respondents.

3. Considering the issue involved in the present application and with consent of the learned advocates appearing for the respective parties as well as considering the fact that the dispute amongst the applicant and respondent No.2 has been resolved amicably, this application is taken up for final disposal forthwith.

4. By way of this application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to

as "BNSS"), the applicant has prayed for quashing and setting aside judgment and order dated 21.9.2023 passed by learned Judicial Magistrate First Class, Mandvi - Kachchh in Criminal Case No.365 of 2019 by which the applicant came to be convicted for the offence punishable under Section 138 of the Negotiable Instruments Act and was sentenced to simple imprisonment of one year. The applicant was also directed to pay cheque amount of Rs.1,90,000/- failing which, the applicant was ordered to undergo further simple imprisonment for a period of 90 days. The applicant has also prayed to quash and set aside the judgment and order dated 9.5.2024 passed by learned Sessions Judge, Kachchh at Bhuj in Criminal Appeal No.128 of 2023 whereby the appeal of the applicant came to be dismissed.

5. Learned advocate for the applicant has taken this Court through the factual matrix arising out of the present application. At the outset, it is submitted that the parties have amicably resolved the issue and therefore, any further continuance of the proceedings pursuant to the impugned FIR as well as any further proceedings arising therefrom would create hardship to the applicant. It is submitted that respondent No.2 has filed an affidavit in these proceedings and has declared that the dispute between the applicant and respondent No.2 is resolved due to intervention of trusted persons of the society. It is further submitted that in view of the fact that the dispute is resolved, the trial would be futile and any further continuance of the proceedings would amount to abuse of process of law. It is therefore submitted that this Court may exercise its inherent powers conferred under Section 528 of the BNSS and allow the application as prayed for.

Learned advocate for the applicant, upon instructions,

states that the applicant is ready and willing to deposit a sum of Rs.15,000/- towards the cost before the Registry of this Court within a period of two weeks from today.

6. Learned Additional Public Prosecutor appearing for the State has opposed the present application and submitted that considering the seriousness of the offence, the complaint in question may not be quashed and the present application may be rejected.

7. Learned advocate for respondent No.2 has reiterated the contentions raised by the learned advocate for the applicant. The learned advocate for respondent No.2 also relied upon the affidavit filed by respondent No.2 - Girish Bachu Sanghar dated 26.9.2025. Respondent No.2 is present in person before the Court and is identified by learned advocate for respondent No.2. On inquiry made by the Court, respondent No.2 has declared before this Court that the dispute between the applicant and respondent No.2 is resolved due to intervention of trusted persons of the society and therefore, now the grievance stands redressed. It is therefore submitted that the present application may be allowed.

8. Having heard the learned advocates appearing for the respective parties, considering the facts and circumstances arising out of the present application as well as taking into consideration the decisions rendered by the Hon'ble Supreme Court in the cases of **Gian Singh Vs. State of Punjab & Anr.**, reported in **(2012) 10 SCC 303**, **Madan Mohan Abbot Vs. State of Punjab**, reported in **(2008) 4 SCC 582**, **Nikhil Merchant Vs. Central Bureau of Investigation & Anr.**, reported in **2009 (1) GLH 31**, **Manoj Sharma Vs. State & Ors.**, reported in **2009 (1) GLH 190**

and **Narinder Singh & Ors. Vs. State of Punjab & Anr.** reported in **2014 (2) Crime 67 (SC)**, it appears that further continuation of criminal proceedings in relation to the impugned FIR against the applicant would be unnecessary harassment to the applicant. I have also considered the latest decision of the Hon'ble Supreme Court in the case of **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others v. State of Gujarat, Criminal Appeal No.1723 of 2017 dated 4.10.2017** and the guidelines issued by the Hon'ble Supreme Court in the said decision, particularly paragraph 15. Considering the nature of disputes between the parties which are all private in nature, I am of the opinion that the matter requires consideration. It appears that the trial would be futile and further continuance of the proceedings pursuant to the impugned FIR would amount to abuse of process of law and hence, to secure the ends of justice, the impugned FIR is required to be quashed and set aside in exercise of powers conferred under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

9. Resultantly, this application is allowed and the impugned (i) judgment and order dated 21.9.2023 passed by learned Judicial Magistrate First Class, Mandvi - Kachchh in Criminal Case No.365 of 2019 as well as (ii) judgment and order dated 9.5.2024 passed by learned Sessions Judge, Kachchh at Bhuj in Criminal Appeal No.128 of 2023 are hereby quashed and set aside qua the applicant **on condition that the applicant shall deposit a sum of Rs.15,000/- towards the cost before the Registry of this Court within a period of two weeks from today.** The applicant is also directed to file an undertaking to the above effect with the Registry of this Court within a period of one week from today. The Registry thereafter shall disburse the said

amount in favour of High Court Legal Services Committee.

It is made clear that this order shall come into force only upon deposit of the amount directed above and production of receipt thereof. Accordingly, Rule is made absolute. Direct service is permitted.

It will be open for the applicant to place this order before the appropriate authority for further action.

(NIRZAR S. DESAI,J)

SAVARIYA

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: RAJNISH NARENDRA SAVARIYA(HC00179), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 10/10/2025 15:19:32