IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR CONSENT QUASHING) NO. 22226 of 2025

==========

RAKESHKUMAR RAJUBHAI SOLANKI

Versus

STATE OF GUJARAT & ANR.

==========

Appearance:
MR ROHITKUMAR R SHARMA(12025) for the Applicant(s) No. 1
PUBLIC PROSECUTOR for the Respondent(s) No. 1

==========

CORAM:**HONOURABLE MR. JUSTICE NIRZAR S. DESAI**

Date : 16/10/2025

ORAL ORDER

1. Heard, the learned advocates appearing for the respective parties. Learned advocate, Mr.Kaushik Barot, states that he appears for Respondent No.2 – the original complainant. He is permitted to file appearance.

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 the consent of the learned advocates appearing for the respective parties as well as considering the fact that the dispute between 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 Nagrik Suraksha Sanhita, 2023 (hereinafter referred to as "BNSS"), the applicant has prayed for quashing and setting aside the impugned order dated 24.01.2025, passed in Criminal Case No.45569/2021, by the learned 14th Additional Chief Judicial Magistrate, Ahmedabad, by which the applicant came to be convicted under Section 255(2) of the Code of Criminal Procedure, 1973 and was sentenced to simple imprisonment of one year. The applicant was also directed to pay cheque amount of Rs.1,95,000/- to the complainant failing which sentence of further three months was imposed upon the applicant.

5. Learned advocate for the applicant, at the outset, stated that the applicant is ready and willing to deposit Rs.15,000/-, towards costs before this Court within a period of one month. He also has taken this Court through the factual matrix arising out of the present application. It is submitted that the parties have amicably resolved the dispute and therefore, any further continuance of the proceedings pursuant to the impugned order 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 BNSS and allow the application as prayed for.

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 – Mohitbhai Hareshbhai Joshi dated 12.10.2025, which is produced separately. Respondent No.2 is present in person before the Court and is duly 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 order 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, thereof. 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 order would amount to abuse of process of law and hence, to secure the ends of justice, the impugned order is required to be quashed and set aside in exercise of powers conferred under Section 528 of BNSS.

9. Resultantly, this application is **ALLOWED** and the impugned order dated 24.01.2025, passed in Criminal Case No.45569/2021, by the learned 14th Additional Chief Judicial Magistrate, Ahmedabad, is hereby quashed and set aside qua the applicant only, subject to the condition that the applicant deposits Rs.15,000/- with the Registry of this Court within period of one month. Consequently, all other proceedings arising out of the aforesaid order are also quashed and set aside qua the applicant. Accordingly, Rule is made absolute. Direct service is permitted.

It is made clear that this order shall come into force only upon deposit of the amount directed above and production of receipt thereof. Upon deposit of the above amount of cost

with the Registry of this Court, the Registry is directed to disburse the said amount of cost in favour of High Court Legal Services Committee forthwith.

(NIRZAR S. DESAI,J)

BHAVIN MEHTA

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: BHAVINKUMAR DEVENDRABHAI MEHTA(HCW0108), ENGLISH STENOGRAPHER GRADE I, at High Court of Gujarat on 16/10/2025 13:33:03