IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE FIR/ORDER) NO. 8349 of 2022

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE P. M. RAVAL

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Approved for Reporting	Yes	No
		No

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MANISHBHAI MAHESHBHAI CHAUDHARI
Versus
STATE OF GUJARAT & ANR.

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Appearance:
MR HIMANSHU C DESAI(6832) for the Applicant(s) No. 1
MR VAIBHAV A VYAS(2896) for the Respondent(s) No. 2
MR JAY MEHTA APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR.JUSTICE P. M. RAVAL**

Date : 17/06/2026
ORAL JUDGMENT

1. The petitioner before this Court is invoking provisions of Section 482 of the Code of Criminal Procedure, 1973 (Section 528 of Bhartiya Nagrik Sauraksha Sanhita, 2023) for quashment of the First Information Report being Part-A C.R.No.11214032220383 of 2022 registered with Mandvi Police Station, Surat for offence under Sections 306 and 506 of the Indian Penal Code, 1860.

2. The brief facts, as per the FIR, are to the effect that;

2.1 The complainant Rajeshbhai Mishra is engaged in Karmakand and was priest in temples. He claims that he had purchased about five guntha Land for Rupees 2,75,000/- paid in cash to Sanketbhai Chaudhary in 2018 and built house in village Balda. He paid this amount within one year from the

date of execution of 99 years lease deed as the said land was 73AA type and cannot be sold till it is converted to NA. Total Land at Block No. 32 Account No. 244 is about 30 Guntha and he stays there since near 2019-2020.

2.2 The complainant resides since January February 2021 i.e. land of Block No. 32 purchased By Manishbhai Maheshbhai Chaudhry residing At Vyara. When the complainant asked Chetanbhai Thakorbhai Choudhry, he told that the land is purchased by his real brother in law Manishbhai and after converting into NA, the complainant shall be given his share of land.

2.3 After consultation with Adv. Mahendrabhai Mahida at Mandvi, it was learnt that the land has to be converted to NA in name of Manishbhai and then only he can get his share. Chetanbhai assured him that the complainant would be given his share once land is converted to NA. The house tax and light bill where in name of Sanketbhai only.

2.4 Manishbhai came to the land in evening at 4 o'clock before about a month and had fixed gate. Manishbhai told to the complainant to vacate the house and told to remove the standing crop and also threatened to demolish the house ignoring the plea of 99 years lease deed.

2.5 On 05/03/2022, wife of Manishbhai Came along with a tractor and started tilling the land.

2.6 Then after about 10 days, police came and told them that

they are illegally residing there. Police summonsed them to Bardoli Rural Police Station along with proof. The Complainant his wife, his son and Chetanbhai went to Bardoli Rural Police Station at about 2 P.M. No proof of execution of lease deed could be submitted. PSI informed that the land at Block No. 32 is legally owned by Manishbhai. The complainant was advised to strike a compromise with Manishbhai.

2.7 On 30/03/2022, the complainant, his son and his wife went to police station at about 11 in the morning where Chetanbhai, Manishbhai, Rakshaben (wife of Manishbhai), Sanketbhai and mother and brother of Sanketbhai were present where PSI told that the land is the name of Manishbhai and two days are there to reach settlement otherwise report shall be submitted.

2.8 Them at about 3 P.M. the complainant and his son Ankit went to home on their motorcycles and reached home. Ankit after lunch at about 5:30 PM. went out on his splendor motorcycle telling that he has some work at Sarkui. Then Chetanbhai told at about 6:30 P.M. to search for Ankit. Complainant tried to contact him on mobile again and again but his mobile was switched off. So he informed his family members and started looking for Ankit. In the evening at 7:15 P.M. his son Abhay sent a photo on whatsapp saying that Ankit has uploaded this on his facebook id. On reading that he found that it was a suicide note. The complainant was continuously trying to contact his son and at about 8:00 P.M. Ankit received mobile call and told that he has consumed poison and he is lying on the sand of Tapi River below

Sthaneshwar Temple at Kakrapal. Therefore, the complainant and his wife left for Sthaneshwar Temple. In the meanwhile Chetan informed that Ankit is found and shifted in 108 at Mandvi Government Hospital. Therefore they went to Mandvi and reached at about quarter past Eight where Ankit was lying on strature in unconscious state and was told that he had consumed poison on account of tension for land. Doctors informed that condition of Ankit is serious and should be shifted to big hospital. Therefore he was taken to Bardoli Sardar Smarak Hospital and then to Kiran Hospital by midnight and expired at about 5:00 P.M. on 31/03/2022.

3. After lodging of the aforestated FIR, a suicide-note was also recovered which, in the nutshell, reads as under:

> *"I had entered into 99 year lease deed for land at Block No. 32. Account No. 244 of Village Balda as transfer was not possible till NA and it was not possible to acquire entire plot therefore the boundries where decided and land on Northen side was to be taken from Sanketbhai but writing was not done. Then I got land filled and house was built within one year. Then I came to know that Manishbhai, Brother-in-law of my friend is to aquire this land so I spoke to him where Manishbhai told that let NA be done, then he will give land. Manishbhai used to come to plant coconut tree which were planted after our border. After completion of our home, we went to Advocate Mahendrabhai who told that there is no sale deed so far therefore house should be name of Sanketbhai. Therefore house tax was done on name of Sanketbhai. When sale deed was executed in favour of Manishbhai, we asked him for writing. Manishbhai said that I don't remember of anything I don't know you. Chetanbhai also breached the trust and today land grabling case was filed aginst my father, we had trusted them and constructed the house but we don't have any evidence I had constructed the house with hard work and unable to stay there anymore, therefore I am ending my*

life and Manishbhai Maheshbhai Patel is only reason for this. I bow to everyone and say that I had strong desire to live but die without any fault as the hardwork and trust of my life is broken. I understood that not to trust anyone with blind eye."

"*I had entered into 99 years lease deed on 12/11/2018 for land at Block No. 32 as advocate Dharmeshbhai told that sale deed cannot be done for fregnented land therefore entered into lease deed and construct our house and when someone purchased this entire land and gets NA done land will be done in our name. Then we had done land filling and constructed the house My friend Chetanbhai had shown boundary of the land to Manishbhai and assured us that our land will be given to us after NA. On advise of Advocate Dharmeshbhai, the property tax was registered in name of Sanketbhai. We borrowed huge funds on interest and started residing in the house. After entire land was transferred on name of Manishbhai, he told us to forget old talks' and Maharaj should leave within one month otherwise there will be court case. I made mistake by trusting him. Chetanbhai also could not do anything. I telephoned his wife but she is saying that she is unable to convince her husband. Then I telephoned him 3 times but he disconnected after hearing my name and did not talk to me therefore for protecting my house, I am taking this step. Manishkumar Maheshbhai Patel is responsible for my death end no one else. I hope that my family can stay in the house and on the land peacefully after my death. The deal for this land was done not on basis of guntha but by showing the boundaries."*

4. Mr.Himanshu C. Desai, learned advocate would submit that the land in question purchaed by the present petitioner from the original land owner which is a restricted tenure land under Section 73AA of the Bombay Land Revenue Code and since the said land was purchased after taking proper permission from the Collector, he had entered into sale-deed dated 08.11.2021. However, the original land owner,

deceased and his family members including the complainant did not vacate the premises therfore, lodged the complaint under the Land Grabbing Act. Thus, the son of the complainant committed sucide leaving the suicide note alleging that the because of the petitioner though the deceased and his family members have invested the amount to construct the house over the property, they could not enjoy and thus it causes the deceased to commit the suicide.

4.1 Mr.Desai, learned advocate for the petitioner argued that none of the ingredients of 'abetment' are atttracted from the plain reading of the FIR since the applicant was not aware with regard to any transaction that the original land owner Sanketbhai had entered into with the complainant and thus Mr.Desai, learned advocate has argued that no case is made out for the alleged offences and more particularly has relied upon the judgments of Hon'ble the Supreme Court in the case of *Prakash and others vs. The State of Maharashtra and another* arising out of **Special Leave Petition (Cri.) No.1073 of 2023** dated 20.12.2024 and in the case of *M.Mohan vs. State Represented by Deputy Superintendent of Police* reported in **AIR 2011 1238** and argued to allow the present petition.

5. Mr.Jay Mehta, learned Additional Public Prosecutor for the Respondent State and Mr.Vaibhav Vyas, learned advocate for the original complainant – Respondent No.2 herein submitted that it is at the behest of the present petitioner that the son of the complainant committed suicide because while the present petitioner decided to purchase the said property,

it was informed that 5 *bighas* of land would be given to the complainant and his family members once the permission from the Collector to sell the land and NA permission is obtained. However, having failed to keep his promise, and with a view to take undue advantage, the petitioner had lodged complaint under the Land Grabbing Act and thus the son of the complainant committed suicide. It is argued that it cannot be said that no case is made out more particularly referring the statement of witness Chetanbhai Thakorbhai Chaudhari, who was witness to 99 years lease-deed entered between the original land owner and the complainant and he is also witness to registered sale-deed entered between the petitioenr and original land ownder.

5.1 Learned advocates have jointly submitted that original land owner has also filed an affidavit before the concerned Land Grabbing Authority stating that 5 *bighas* of land was to be handed over to the original complainant and his family members and thus, it cannot be said that the applicant has no role to play when a young person aged about 23 years committed suicide because lost his house based on false promise given by the present petitioner and having backed off from the said promise, the son of the complainant committed suicide.

6. Heard learned advocates for the parties.

7. ‘Abetment’ is defined under Section 107 of the IPC and upon reading of the said definition and to satisfy the requirement of ‘instigation’, it is not necessary that actually

words would be used to that effect or what constitutes instigation must necessarily and specifically is subjective of the consequences, however, the FIR, with reasonable certainity to incite the consequences, must be capable of being spelled out on its plain reading. It is also impossible to lay down straight jacket formula as to what would amount to 'instigation' and 'goading' and each case has to be decided on the basis of its own peculiar facts and circumstances. Since the abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in commiting suicie, conviction cannot be sustained.

7.1 The question which falls for consideration is that whether from the entire material on record can this Court arrive at a conclusion that the petitioner is connected with the offence under Section 306 of the IPC ?

7.2 Thus, without a positive act on the part of the petitioner – accused to instigate or aid a person in committing suicide, when conviction cannot be sustained and going through the FIR as well as suicide note and also investigation papers, no clear *mens rea* to commit an offence is surfacing on record. Not only that, no active or direct act which leads the deceased to commit suicide seeing no other option and that act was intended to push the deceased in such a position that he had no other option but to commit suicide, it cannot be said that present petitioner has committed offence under Section 306 of IPC. More particularly, in view of the fact that land being of

restricted tenure under Section 73AA of the Bombay Land Revenue Code, even assuming for the moment that the complainant had entered into an agreement for lease of 99 years would have no legal sanctity.

7.3 It would be also evident from the reading of suicide note that the son of the complainant and the complainant had also approached the advocate who had advised them and they had acted accordingly.

7.4 There is nothing on record to point out that the petitioner had *mens rea.* There is nothing evident from the papers of the charge-sheet even to presume or infer the element of *mens rea* which is an essential ingredient to invoke the provisions of Section 306 of IPC. There is no incitement or provocation to encourage to commit suicide and except for bare words that *petitioner was to give 5 bighas of land,* would be of no consequences and nothing more could be gathered from the facts of the present case that the present petitioner by his acts and his continuous course of conduct created a situation which leads the deceased perceiving no other option but to commit suicide. There is no active role which tarnishes self-esteem or self-respect of the deceased which eventually drew him to commit suicide. Even assuming for the moment that petitioner had agreed to give 5 bighas of land it falls sort of offence of abetment of offence of suicide. Thus taking note of surrounding facts and circumstances and factors, the deceased having reacted in a different way cannot be said that the petitioner had abetted the offence as alleged. Even assuming for the moment that petitioner had stated that *'you*

forget everything, nothing can be done' without intending consequences which may follow and the same cannot be termed as *'instigation'.*

7.5 The judgments relied upon by learned advocate for the petitioner in case of *Prakash and others vs. The State of Maharashtra and another* **(supra)** and in the case of *M.Mohan vs. State Represented by Deputy Superintendent of Police* **(supra)**, the arguments as advanced by learned advocate would be fortified from the law settled therein and hence are considered while deciding the present petition.

8. Having said that this Court is of the considered opinion that very sad incident has taken place whereby young boy aged 23 years committed suicide for which father has filed complaint, however, having found that petitioner has not committed any crime as alleged, the continuation of investigation of an FIR and the petitioner to face the trial would amount to abuse of process of Law, more particularly when the FIR and other materials accompanying the FIR and the police paper do not disclose an offence attracting the provisions of Section 306 of IPC.

9. In view of foregoing discussion, the present petition requires to be allowed and it is allowed accordingly. The FIR impugned in the present petition being Part-A C.R.No.11214032220383 of 2022 registered with Mandvi Police Station, Surat is hereby quashed and set aside.

(P. M. RAVAL, J)

MISHRA AMIT V.

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: AMIT VISHNUPRASAD MISHRA(HC00187), Principal Pvt. Secretary, at High Court of Gujarat on 17/06/2026 11:59:02