IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC. APPLICATION (FOR QUASHING & SET ASIDE FIR/ORDER) NO. 3496 of 2014
With
R/CRIMINAL MISC. APPLICATION NO. 13424 of 2012

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE P. M. RAVAL

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Approved for Reporting	Yes	No
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JITENDRABHAI CHIMANLAL PATEL & ORS.
Versus
STATE OF GUJARAT & ANR.

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Appearance:
MR IH SYED, SR ADVOCATE with MR CHETAN K PANDYA(1973) for the Applicant(s) No. 1,2,3,4,5,6,7,8,9
MR YASH N NANAVATY(5626) for the Respondent(s) No. 2
MR KM ANTANI, APP for the Respondent(s) No. 1

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

Date : 30/06/2026

ORAL JUDGMENT

1. These applications under Section 482 of Criminal Procedure Code, 1973 (the Code) are preferred praying to quash the FIR

being C.R. No. I-68 of 2012, lodged before Sachin Police Station, Dist.: Surat for the offences punishable under Sections 406, 420, 465, 467, 468, 471, 474, 447, 120B and 114 of the Indian Penal Code, 1860 (IPC).

2. As both the matters arise out of the same FIR, the same came to be heard together and are being decided by this common judgment.

3. Outlined facts of the prosecution case are that the accused, are the then President and Trustee of the Ramji Mandir Trust, Talati etc., allegedly, in collusion with each other, created forged and fabricated documents relating to the joint family property belonging to the *de facto* complainant, got Notarized the documents and thereby, wrongly got entered the name of Ramji Mandir Trust in revenue records *viz.* Form 12 - Pani Patrak and on the basis of such bogus entry, presented appeal before the Deputy Collector as well as the Secretary, Revenue Department presenting false information as true and despite such entry being false and forged, submitted affidavit to that effect and thereby, kept illegal possession of the land. Further, President of Vanz-Sachin Gram Vikas Sahakari Mandli, on the basis of Entry No. 524 dated 01.08.1956 made in the revenue records in the name of the Mandli, without producing any evidence, filed appeal before the Deputy Collector and the Secretary, Revenue Department and thereby, kept illegal possession of the land and the Talati had, in collusion

with the President of the Ramji Mandir Trust, made bogus entry. Thus, all the accused, in collusion with each other, presenting false facts and information as true, filed appeals before the competent authority and produced forged affidavits and then losing the *lis*, made false claim on the joint family property (land) of the complainant, committed the offence in question, for which, FIR in question came to be registered.

4. Heard, Mr. I. H. Syed, Senior Counsel, assisted by learned advocate Mr. Chetan K. Pandya, for the applicants, learned Additional Public Prosecutor Mr. K. M. Antani for the respondent No. 1 – State and learned advocate Mr. Yash Nanavaty for the respondent No. 2 - *de facto* complainant, at length.

4.1 The bone contention of the learned senior advocate for the applicants is that the ingredients of the offence alleged against the present applicants are not at all satisfied.

4.2 Learned senior advocate for the applicants would submit that lands in question were Devsthan lands and were occupied by Ramji Mandir and first revenue entry being Entry No. 11 dated 19.10.1929 which was in the name of heirs of Narandas Guru Hanumandasji, who was the then Administrator of Lalji Maharaj. It is submitted that Ramji Mandir Trust came into existence later. It is stated that the *de facto* complainant, only with a view to take possession of the said lands, has initiated the criminal proceedings

by putting the village people in fear for which, the village people also represented before various authorities. It is further submitted that *vide* Entry No. 524 dated 01.07.1942, the same was made in the name of Inamdars as Administrators of Lalji Maharaj. Thereafter, by Entry No. 653 dated 02.07.1948 in the name of Babubhai Gulabbhai and others as Administrators of Lalji Mandir which was then a Devsthan land. Thereafter, *vide* Entry No. 79 dated 22.11.1948, name of Babubhai Nagarsheth and others were added as Administrators of Ramji Mandir vide Entry No. 525 dated 29.09.1963 was affected in connection with Section 88(B) of the Gujarat Tenancy and Agricultural Lands Act. The Devsthan Inami Act was abolished *w.e.f.* 15.11.1969 and therefore, the consequent Entry Nos. 1254, 1255 and 1292 dated 12.02.1977 and 29.04.1977 were entered and were pertaining to tenancy cases which were in favour of the Ramji Mandir Trust. In effect, the land in question belong to Ramji Mandir Trust and therefore, in the submissions of the learned senior advocate for the applicants, the Administrators and Trustees thereof, cannot be considered to be foreingnors to the Trust land.

4.3 It is further submitted that name of Babubhai Nagarsheth was entered into the revenue records as an Administrator, however vide Entry No. 161 dated 20.04.1957, the names of heirs of Babubhai Nagarsheth were mutated as he expired on 19.02.1957 which is not permissible as Babubhai Nagarsheth's name was running in the capacity of Administrator only. Thus, it clearly

transpires that the complainant is trying to take undue advantage of own wrong.

4.4 It is further submitted by the learned senior advocate for the applicants that on 06.04.2013, the respondent No. 2 came to the lands in question with around 100 people and JCB Machines and sought to take over forceful possession of the lands, to which, the village people opposed. The police authority concerned, called the applicants to settle the matter when they were arrested and now they are on regular bail. It is stated that the applicants have also challenged the inaction on the part of the police as report dated 06.03.2013 forwarded on 07.04.2013. It is further submitted that later on supplementary Charge-sheet was also filed on 18.06.2013.

4.5 It is further stated that allegation pertaining to filing a false affidavit, the issue is still at large as Revision Application filed by the Trust is still pending before the SSRD. Further, action against the applicants is barred by Section 195 of Code. It is further submitted that action on the part of the investigating agency in arraigning the applicants is nothing but a malicious prosecution and deserves to be quashed.

4.6 It is submitted that the dispute, even otherwise, is of civil in nature which is being given a criminal colour.

4.7 Making such submissions, it is urged that present FIR and

the consequential proceedings *qua* the applicants may be quashed and set aside as no *prima facie* case is made out against the present applicants.

4.8 In support, the learned senior advocate for the applicants has relied on decisions in ***Kishan Singh (Dead) Through LRs v. Gurpal Singh and Others, (2010) 8 SCC 775*** and in ***Shri Lokraj And Others v. Kishan Lal And Others, (1995) 3 SCC 291.***

5. *Conversely*, the learned Additional Public Prosecutor would submit that Charge-sheet is filed after taking into consideration the opinions formed by the Mamlatdar based on revenue position and revenue proceedings, In-charge Assistant Commissioner based on PTR register and the entries reflected therein with regard to the properties in question and also on the opinion of the Assistant District Registrar of the Cooperative Societies and therefore, the factual aspect as to how the applicants are claiming their right over the suit property is clouded.

6. The learned advocate for the respondent No. 2 - *de facto* complainant in addition to the submissions made by the learned Additional Public Prosecutor, also relied upon the revenue entries way back from 1944, which reflect that the properties in question came to the grand father-in-law of the complainant by way of a Sale Deed.

6.1 The learned advocate for the *de facto* complainant would submit that the applicants have not approached the Court with clean hands and have suppressed the material facts and thereby, misguided the Court. It is stated that the say that the applicants are the Trustees of the Ramji Mandir Trust and that, they hold the lands in question, are not supported by any documents on record.

6.2 It is stated that when the Trust itself is registered in the year 1983, to be precise on 20.12.1983, there is no question of mutating entries in favour of the Trustees prior thereto. It is further submitted that Entry No. 11, relied on by the applicants does not bear the name of Ramji Mandir Trust and thus, a false statement is made. It is stated that, in fact, legal heir of Narandas Guru Hanumandasji *i.e.* Revtidas Guru Harmandas gave an application to the Talati-cum-Mantri to transfer the land in the name of Inamdar Saheb as he did not want to continue as an Administrator and therefore, the land was mutated in the name of Inamdar Saheb and from Inamdars, the said land was purchased by the grand father-in-law of the *de facto* complainant in the year 1944 and land was mutated in the revenue records upon Sale Deed being Entry Nos. 583 and 584.

6.3 It is stated that mutation of name of Ramji Mandir Trust in the revenue records is contrary to the Government Resolution dated 24.11.1981, inasmuch as, for mutating the name, the Talati-cum-Mantri ought to have passed a written order to change the

name in the revenue records and since, the same was found true, Talati-cum-Mantri, original Accused No. 4 came to be arrested by the Investigation Officer (IO).

6.4 It is further stated that Devsthan Inamdar Act came to be abolished by the State Government *w.e.f.* 15.11.1969, whereby, as per Section 6A, the land was required to be transferred in the name of owner of the said land.

6.5 It is stated that the applicants have not produced RTS Revision No. 40 of 2011 pending before the Special Secretary (Appeals) but have not deliberately not produced an order dated 27.12.2011 passed by the said authority which *prima facie* indicates that the revenue authorities did not find any document *prima facie* establishing that name of Ramji Mandir Trust was ever mutated in revenue records and therefore, dismissed the stay application therein.

6.6 In support of his case, the learned advocate for the respondent No. 2 would rely on decisions in the cases of ***Dharambeer Kumar Singh v. The State of Jharkhand and Another, 2024 INSC 583***; ***Abhishek Singh v. Ajay Kumar and Others, 2025 INSC 807***; and ***Punit Beriwala v. The State of NCT of Delhi and Others, 2025 INSC 582***.

7. The learned Additional Public Prosecutor as well as the

learned advocate for the *de facto* complainant would further submit that as per the settled law of the land, inherent powers under Section 482 of the Code should be used sparingly and with a view to curb the abuse of process of law. He submitted that in the case on hand, a *prima facie* case is made out against the applicants and hence, they requested that it is ultimately a matter of trial after which, the truth could be churned out and hence, these applications may not be entertained and they urged to be dismissed.

8. Heard and considered the submissions advanced by learned advocates for the parties and carefully gone through the material placed on record as well as the papers of investigation.

9. Prior to assessing the factual matrix on the touchstone of criminal jurisprudence, it is apposite to reinforce the settled legal position governing the scope, ambit, and limits of the inherent jurisdiction vested under Section 482 of the Code. The jurisprudential parameters regulating the exercise of this extraordinary power have been authoritatively catalogued by Hon'ble Supreme Court in a long line of precedents, chief among them being the authoritative in the case of ***State of Haryana v. Bhajan Lal [AIR 1992 SC 604]***. Therein, Hon'ble Supreme Court crystallized seven distinct, illustrative categories of cases where judicial intervention under Section 482 of the Code or Article 226 of the Constitution is necessitated to secure the ends of justice and

clip any abuse of the process of Court. The relevant portion of Paragraph 102 of the said judgment is extracted below:

> *"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*
>
> > *(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
> >
> > *(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
> >
> > *(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
> >
> > *(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable*

offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

9.1 Evaluating the present applications on the anvil of the principles enunciated in ***Bhajan Lal (supra)***, this Court has to determine whether the allegations in the FIR, even when accepted at face value, satisfy the essential statutory ingredients of Sections 406, 420, 465, 467, 468, 471, 474, 447, 120B and 114 of the IPC. This Court must ensure that criminal machinery is not permitted to degenerate into an engine of harassment where liability under criminal law is completely absent.

9.2 The FIR reveals that the accused created forged and

fabricated documents relating to the joint family property belonging to the *de facto* complainant, got Notarized the documents and thereby, wrongly got entered the name of Ramji Mandir Trust in revenue records and on the basis of such bogus entry, presented appeal before the Deputy Collector as well as the Secretary, Revenue Department presenting false information as true and despite such entry being false and forged, submitted affidavit to that effect and thereby, were in possession of the land illegally. Further, President of Vanz-Sachin Gram Vikas Sahakari Mandli, on the basis of Entry No. 524 dated 01.08.1956 made in the revenue records in the name of the Mandli, without producing any evidence, filed appeal before the Deputy Collector and the Secretary, Revenue Department and thereby, kept illegal possession of the land and the Talati had, in collusion with the President of the Ramji Mandir Trust, made bogus entry.

9.3 Evaluating the rival contentions and analyzing the evidentiary record, the following facts emerge on record:

a) the issue involved in the matter is with regard to a land stated to have been of the joint family property of the *de facto* complainant;

b) indisputably, the possession of the land in question, as on today, is with the *de facto* complainant only;

c) the grand father-in-law of the *de facto* complainant stated to have acquired/purchased the said land from Inamdars *i.e.* Vidhyadhar Govindrao and the legal heirs of Ganpatrao Bhimashankar by way of a Sale Deed in the year 1944 and mutated name in the revenue records based thereon, however, no Sale Deed is produced on record to substantiate the said fact;

d) vesting of lands in the grand father-in-law of the *de facto* complainant at the hands of the Inamdars appears to be in question since Civil Suit for declaring them as owners of the land based on such transaction is also rejected thus the title of the complainant is clouded;

e) from a perusal of the FIR, it appears that in the year 2001 when the *de facto* complainant desired to fence the lands in question, the President and the Trustees of the Ramji Mandir Trust as well as the President of the Vanz-Sachin Gram Vikas Sahakari Mandli stopped them to do so saying that the ownership and possession of the said lands were with them. Thus, despite the *de facto* complainant having knowledge of such a position, she preferred to file the FIR in question only in 2012, precisely on 28.07.2012 and for such an exorbitant delay of about 12 years, there is no plausible explanation forthcoming on record. Though, the aspect of delay can be gone in to during trial however, considering

other attended circumstances delay also hits to the root of the case more particularly having lost in civil suit and also as held in the case of *Kishan Singh (Supra)* the filing of belated FIR without any plausible explanation would amount to abuse of process of law;

f) so far as offence of cheating is concerned, the intention to deceive must exist at the very inception. In the instant case, nothing such a sort *prima facie* appears on record to substantiate such a fact. Also, as noted earlier, the possession of the land in question is with the *de facto* complainant only, however, has not produced any Sale Deed for showing her right over the property;

g) there is an absolute lack of material demonstrating any criminality involved in the case on hand as only bare allegations without any proof therefor, are made in the FIR and that, the dispute appears to be solely of civil nature to which, criminal colour is tried to be given;

h) the record is completely barren of any evidence suggesting any forgery and/or false representation by the applicants or claiming the right over the property as owners of land though and both the parties are resting their claims on revenue entries which were existing prior to their birth and claiming right on such revenue entries by both the sides

cannot be said to attracting provisions of 406, 420, 465, 467, 468, 471, 474, 447 of IPC.

i) to understand when these sections of the IPC are legally "attracted," the prosecution must satisfy specific, distinct components known as essential ingredients. Here is the structured breakdown of the necessary ingredients for each section as mentioned in the FIR:

i.a) Section 406: Criminal Breach of Trust:

This section provides the punishment for "Criminal Breach of Trust" (which is defined under Section 405).

***Ingredient 1**: The accused must be entrusted with property or with dominion (control) over that property.*

***Ingredient 2**: The accused must dishonestly misappropriate, convert it to their own use, or use/dispose of that property.*

***Ingredient 3**: Such disposal must be in violation of a direction of law prescribing how the trust is to be discharged, or any legal contract (express or implied) touching the discharge of the trust.*

***When it is attracted**: When someone lawfully gives something to hold or manage, and one dishonestly pockets it or violates the agreement to use it for oneself/one's own benefit.*

i.b) Section 420: Cheating and Dishonestly Inducing Delivery of Property:

Cheating is defined in Section 415; Section 420 is the

aggravated form where property is delivered as a result.

Ingredient 1*: Deception of a person by the accused.*

Ingredient 2*: Fraudulent or dishonest inducement of that person to deliver any property to someone, or to consent to retain property.*

Ingredient 3*: Mens Rea at Inception: The intention to deceive must exist at the very inception of the transaction. A mere breach of a promise later on does not equal cheating unless the bad intent was there on Day one.*

i.c) The Forgery Cluster (Sections 465, 467, 468, 471, 474):

Forgery under the IPC acts like a chain reaction. Section 465 is the base, while the others depend on what was forged, why it was forged, or how it was used.

[Section 465: Base Forgery]

[Section 467]	***[Section 468]***	***[Section 471 & 474]***
Forging a valuable security or will	*Forging specifically to cheat someone*	*Using or possessing a forged document*

i.d) Section 465: Punishment for Forgery:

This is the basic offense of making a false document (defined under Sections 463 and 464).

Ingredient 1*: The creation of a false document or false electronic record (or part of one).*

Ingredient 2*: The intent must be to cause damage/injury to the public or any person, support a false claim/title, cause anyone to part with property, or commit fraud.*

i.e) Section 467: Forgery of Valuable Security, Will, etc.:

This is a severe, highly punishable form of forgery due to the nature of the document involved.

Ingredient 1*: The elements of basic forgery (Section 465) must be present.*

Ingredient 2*: The forged document must explicitly purports to be a valuable security, a will, an authority to adopt, or a document giving authority to receive money, principal, interest, or goods. (e.g., forging a land Sale Deed or a bank cheque).*

i.f) Section 468: Forgery for Purpose of Cheating:

Ingredient 1*: The accused committed forgery.*

Ingredient 2*: The accused did so with the specific intent that the forged document would be used to cheat someone.*

Note*: The actual cheating does not need to be completed; the mere act of creating the fake document with the intent to cheat attracts this section.*

i.g) Section 471: Using as Genuine a Forged Document:

This section punishes the use of the fake document rather than its creation.

Ingredient 1*: Fraudulent or dishonest use of a document as genuine.*

Ingredient 2*: The accused must have knowledge or a definitive reason to believe that the document was actually forged.*

When it is attracted*: If one knowingly hands a fake land entry or certificate to a government officer to claim an*

advantage, it triggers Section 471.

i.h) Section 474: Possession of a Forged Document (under Sec 466 or 467):

Ingredient 1*: The accused is in physical or constructive possession of a forged document.*

Ingredient 2*: The document must be of a specific high-value category (like a valuable security or record under Section 467).*

Ingredient 3*: The accused has knowledge it is fake and harbors the intent to use it as genuine when the opportunity arises.*

i.j) Possession and Land Offenses:

Section 447: Punishment for Criminal Trespass - Criminal Trespass (defined in Section 441) protects actual possession, not just legal ownership.

Ingredient 1*: Entry into or upon property in the possession of another. (Or, if the entry was lawful, unlawfully remaining there).*

Ingredient 2*: The intent behind the entry/remaining must be to:*

1. Commit an offense; OR

2. Intimidate, insult, or annoy the person who is in possession of that property.

When it is attracted*: If physical possession remains undisrupted with the original party, a mere paper claim or oral dispute over a boundary does not automatically satisfy the ingredients of criminal trespass.*

9.4 Tested on the aforesaid sections none of the ingredients of IPC are attracted in as much as the claim of both the parties over the disputed land is based on revenue records and as such the claim of parties is pending for adjudication before the revenue authorities. Preparing an affidavit based on the entries in revenue records cannot amount to making of forged documents or false documents as the very ingredients of *mens rea* are missing. The entries, as noted above are even prior to the birth of the applicants as well as the complainant. The complainant on the other hand has miserably failed to produce title deeds and having lost civil suit for declaration as an "owner" and the fact of possession of the land would reflect her intentions otherwise. The complainant asserted ownership *via* a 1944 Sale Deed through her grandfather-in-law. They argued the Ramji Mandir Trust was only registered in 1983, making any prior revenue mutations in its name legally impossible and fraudulent. The dispute fundamentally boils down to conflicting interpretations of revenue entries (Form 7/12, Form 6, Pani Patrak) inheritance claims, and the impact of land abolition laws. Where a controversy is predominantly civil, criminal machinery cannot be allowed to degenerate into an engine of harassment. The impugned FIR is a classic case of malicious prosecution and a manifest abuse of the process of law, maliciously instituted with an ulterior motive to give a predominantly civil dispute a criminal cloak.

9.5 Hon'ble Supreme Court in ***Pradeep Kumar Kesarwani v.***

State of Uttar Pradesh [AIROnline 2025 SC 956] recently synthesized the jurisprudence governing Section 482 of the Code and formulated a strict four-step analytical framework to evaluate petitions seeking the quashing of criminal trials at their inception. The framework dictates:

> *"20. The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the CrPC:*
>
> > *(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?*
> >
> > *(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.*
> >
> > *(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?*
> >
> > *(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?*
>
> *If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal proceedings, in exercise of power vested in it under Section 482 of the Cr.P.C. Such exercise of power, besides doing*

justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial..."

9.6 Applying the aforementioned four-step test to the facts on hand, the case put up by the applicants is of unimpeachable quality rulling out the factual assertions contained in the FIR and the material, as such, cannot be justifiably refuted by respondents. The same cannot be lightly brushed aside by a Court of law, even at the preliminary stage of quashing.

10. The learned advocate for the *de facto* complainant has relied on a decision in ***Dharambeer Kumar Singh (supra).*** In the said case, the Apex Court found that adjudication was required as the respondent found beneficiary which could not absolve him from the criminal liability. In the case at hand, while the facts are completely different, admittedly, there is nothing on record to suggest that the applicants have taken any benefit inasmuch as the possession of the lands in question is with the *de facto* complainant only. Hence, the said decision is not applicable to the facts of the case on hand.

10.1 So far as decision in the case of ***Abhishek Singh (supra),*** relied by the learned advocate for the *de facto* complainant is concerned, it was a case of cross FIR, where the gold pledged by the appellant with the bank in lieu of funds (loan) required by him, came to be revalued against the agreement, though appellant repaid the loan amount; the gold found to be counterfeit against

the fact that while availing loan, it was valued. In the said facts and circumstances of the case, the Court came to the conclusion that fraud, if any, at the first evaluation or the second, could be unearthed at the trial only. In the instant case, while the facts are completely different, as said earlier, there is nothing on record to show *prima facie* that the applicants have availed any undue benefit out of the alleged act. Hence, this decision also would not be of any help to the *de facto* complainant.

10.2 So far as decision relied on by him the learned advocate for the *de facto* complainant in ***Punit Beriwala (supra)*** is concerned, in that case, the Apex Court found that the accused persons by misrepresentation and deception entered into multiple transactions with respect to the subject property. However, in the case on hand, the facts are completely different. There is nothing on record to show that accused persons had an intention to deceive right from the beginning and entered into false transactions and deceived. Further, the possession of the lands in question is still with the *de facto* complainant only. In the circumstances, the said decision is of no help to the *de facto* complainant.

11. In the decision relied on by the learned senior advocate for the applicants in ***Kishan Singh (Dead) Through LRs***, the Apex Court has in no uncertain terms observed that:

> *"In cases where there is a delay in lodging a FIR, the Court has to look for a plausible explanation for such delay. In absence of such an explanation, the delay may be fatal. The reason for quashing such proceedings may not be merely that the allegations were an afterthought or had given a coloured version of events. In such cases the court should carefully examine the facts before it for the reason that a frustrated litigant who failed to succeed before the Civil Court may initiate criminal proceedings just to harass the other side with mala fide intentions or the ulterior motive of wreaking vengeance on the other party. Chagrined and frustrated litigants should not be permitted to give vent to their frustrations by cheaply invoking the jurisdiction of the criminal court. The court proceedings ought not to be permitted to degenerate into a weapon of harassment and persecution. In such a case, where an FIR is lodged clearly with a view to spite the other party because of a private and personal grudge and to enmesh the other party in long and arduous criminal proceedings, the court may take a view that it amounts to an abuse of the process of law in the facts and circumstances of the case."* (Para 22)

11.1 If the case on hand is adverted to, as noted herein above, there is a huge delay in lodging the FIR for which, no plausible reason is forthcoming and that too after having lost civil suit for declaring them as the owners of the property."

11.2 Further, in the decision relied on by the learned senior advocate for the applicants in ***Shri Lokraj and Others (supra),*** the Apex Court has held that, "*Consequent to the abolition, the pre-existing right, title and interest of the inamdar or any person having occupation of the inam lands stood divested and vested in the State until re-grant is made. The inamdar, thereby lost the pre-existing right, title and interest in the land. The right to partition itself also has been lost by*

the statutory operation unless re-grant is made" (Para 4).

11.3 In the instant case also, the lands in question are Inami properties however, the complainant claiming it to have purchased from Inamdars. Without expression any opinion on the said aspect which will directly affect the rights of the respective parties which can be decided in an appropriate proceeding the said aspect is left open as not relevant to decide the issue in the case on hand except for keeping in view the fact that the complainants case rests upon the said claim.

12. *The Apex Court in the decision in Madhavrao Jiwaji Rao Scindia & Another etc. v. Sambhajirao Chandrojirao Angre & Others Others, reported in AIR 1988 SC 709, the Court held as under:*

> *"The legal position is well-settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage. A case of breach of trust may be both a civil wrong and criminal offence. But there would be certain situations where it would predominantly be a civil wrong and may or may not amount to criminal offence. The*

> *instant case is one of that type where, if at all, the facts may constitute a civil wrong and the ingredients of the criminal offence are wanting".* (Para 7)

13. In view of the distinct absence of the essential ingredients required to attract Sections 406, 420, 465, 467, 468, 471, 474, 447, 120B and 114 of the IPC, forcing the parties to endure a full-fledged criminal trial, would be an exercise in futility, more particularly, the facts on hand constitute civil wrong lacking ingredients of afore-stated offences.

14. In the result and for the reasons stated herein above these applications succeed and are hereby allowed. First Information Report being C.R. No. I-68 of 2012, registered with Sachin Police Station, Dist.: Surat for the offences punishable under Sections 406, 420, 465, 467, 468, 471, 474, 447, 120B and 114 of the Indian Penal Code, 1860 along with all consequential criminal proceedings flowing therefrom, stands quashed and set aside *qua* the present applicants only.

14.1 Rule is made absolute in the aforementioned terms. **Direct service** is permitted.

[P. M. Raval, J.]

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Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: HIREN VIRENDRABHAI MER(HC00351), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 30/06/2026 12:51:17