# IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

## R/CRIMINAL MISC. APPLICATION (FOR QUASHING & SET ASIDE FIR/ORDER) NO. 8681 of 2016

**FOR APPROVAL AND SIGNATURE:**
**HONOURABLE MR.JUSTICE P. M. RAVAL**

==========

| Approved for Reporting | Yes | No |
|---|---|---|
| | | ✓ |

==========

SANJAY HARISHBHAI ACHARYA
Versus
STATE OF GUJARAT & ANR.

==========

Appearance:
MR MAUNISH T PATHAK(5892) for the Applicant(s) No. 1
RAVI V DESAI(8443) for the Applicant(s) No. 1
MR. VISHAL P THAKKER(7079) for the Respondent(s) No. 2
MR ROHAN SHAH, APP for the Respondent(s) No. 1

==========

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

**Date : 12/10/2026**

**ORAL JUDGMENT**

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973, seeking to quash and set aside FIR being C.R. No. I-32/2016 dated 26.02.2016 registered before the Nilambaug Police Station, Bhavnagar, for offences punishable

under Sections 354 and 114 of the Indian Penal Code (IPC), along with the chargesheet dated 25-04-2016 and subsequent Criminal Case No. 2838 of 2016 pending against the petitioner.

2. Facts as narrated in the FIR, in verbatim, are as follows:

> *"My name is xxxxxxxx, wife/daughter of Anandkumar Mansukhlal Thakkar. Age: 35 years. Occupation: Housewife. Residing at: Block No. B/4, Akshardip Complex, near Dipak Hall, opposite Sanskar Mandal, Bhavnagar. Mobile No.: 9429132484.*
>
> *Presenting myself in person, I am stating and writing the facts of my complaint as follows: I live at the above-mentioned address with my husband and do housework. Today, on 25/02/19, at around 4:00 to 4:30 PM, I was alone at home. At that time, when the doorbell rang, I went to open the front door. Our neighbour, Sanjay Acharya (who runs a Dabeli stall), suddenly came close to me and told me that he likes me very much and asked me to have a love affair with him. When I pleaded with him and told him that you are also married and so am I, and that this is not proper, he refused to listen even after being told so. He stated that if I did not love him, he would kill my husband. When I said that I would inform your wife about this matter, he replied, "What can my flat's wife or anyone else do? I am not afraid of anyone, and I will trap you falsely," and he grabbed my feet and begged him not to do so. At that moment, my husband returned home from work, and seeing him, this Sanjay Acharya suddenly started running away. My husband went to catch him, but he could not be caught and ran away. At that time, his mobile phone dropped near our front door, which I am presenting here, and at that time, the residents of our flat also gathered, by which time Sanjay had fled.*
>
> *This Sanjay Acharya lives right next door to us. For the last three months or so, he has frequently told me that he likes me very much and has harassed and troubled me by repeatedly teasing and annoying me whenever I came outside. On many occasions, when I*

*came outside, this Sanjay Acharya would play obscene clips on his mobile phone, show them to me from a distance, and harass me. However, out of fear that my modesty and reputation would be ruined and that it would cause defamation in society, I did not talk to my husband about this matter and kept enduring his harassment. Due to the aforementioned events, today morning I narrated the whole matter to my husband, telling him that Sanjay had said he would come around 3:30 to 4:00 PM today afternoon. Therefore, my husband had told me to be home around 3:30 to 4:00 PM in the afternoon. Now, as I could no longer bear Sanjay's harassment, I had asked my husband to come home so that Sanjay could be caught red-handed. As per our conversation at the time of the incident, when Sanjay was harassing me, [my husband] arrived within a few minutes, and today, as the aforementioned event occurred, I have come along with my husband to lodge a complaint. Therefore, I have a complaint to take legal action against Sanjay Acharya (the Dabeli stall owner).*

*Thus, my complaint facts are correct and true according to what I dictated, having read and understood which I have put my signature below."*

3. As per the contents of the FIR, on 25.02.2016 at around 4:00 to 4:30 PM, the complainant was alone at her home when the petitioner (Sanjay Acharya, running a Dabeli stall) allegedly rang the doorbell, entered, expressed unwanted romantic advances, threatened her, and grabbed her feet.

4. The complainant has alleged a history of prior stalking and harassment spanning about three months, during which the accused allegedly teased her and displayed obscene clips on his mobile phone whenever she stepped outside.

5. Crucially, the FIR sets up a pre-planned narrative: The complainant alleges that she informed her husband *prior* to the incident that the petitioner had stated he would visit her home around 3:30 to 4:30 PM that afternoon, and therefore, her husband had instructed her to stay home so that they could catch the petitioner red-handed. When the husband returned and the petitioner allegedly tried to flee, he dropped his mobile phone at the doorstep, which was subsequently seized.

6. Following investigation, the Investigating Officer filed a Chargesheet on 25.04.2016, leading to the institution of Criminal Case No. 2838 of 2016.

**7. Submissions of the Petitioner:**

7.1 Learned advocate for the petitioner Mr. Maunish T Pathak with Mr. Ravi V Desai vehemently contended that the petitioner is a law-abiding citizen with a clean record, living peacefully in the same residential complex for years without any prior antecedents.
6.2 It is submitted that a holistic and careful reading of the FIR reveals that no cognizable offence under Section 354 IPC is made out against the petitioner.

7.2 The principal ground urged is that the parties are known to each other, and the criminal machinery has been set in motion as an afterthought and counter-blast. Specifically, the petitioner

contends that the complaint is an engineered device crafted because the complainant's husband chanced upon the petitioner and the complainant together, prompting a sudden and false implication out of suspicion or personal vendetta.

## 8. Submissions of the Respondents (APP and Complainant):

8.1 *Per contra*, learned APP and learned advocate for the complainant Mr. Vishal P Thakker strongly opposed the petition, arguing that a *prima facie* case is clearly made out from the allegations in the FIR.

8.2 It was emphasized that the mobile phone belonging to the accused was recovered directly from the place of the offence, which corroborates the presence and flight of the petitioner.

8.3 It was urged that there are serious allegations against the accused involving the outraging of a woman's modesty, and this Court should refrain from conducting a mini-trial at this stage, warranting the dismissal of the petition.

## 9. Discussion and Analysis:

9.1 While the extraordinary power under Section 482 of the Code of Criminal Procedure must be exercised sparingly and with circumspection, it is equally well-settled that where criminal

proceedings are manifestly tainted with malafides, inherently improbable, or where the uncontroverted allegations fail to repose judicial confidence, allowing the prosecution to continue would result in an abuse of the process of law.

**9.2 Critical Scrutiny of the Complainant's Narrative (Silence regarding Prior Harassment):**

9.2.1 The complainant alleges that she was subjected to continuous harassment, stalking, and exhibition of obscene clips by the petitioner for over three months. However, she conveniently explains her silence during this entire duration by claiming that she did not inform her husband out of fear of ruining her modesty, reputation, and societal defamation.

9.2.2 This explanation runs completely counter to the subsequent twist in the prosecution's story. If a victim is genuinely living under the terror of an aggressive stalker for months to protect her reputation, it defies natural human conduct that she would suddenly choose to withhold police intervention and instead orchestrate a private "trap" at her home with the help of his husband.

**10. The Inherent Implausibility of the "Trap" Theory:**

10.1 According to the FIR, the complainant claims she told her husband *beforehand* that the accused was scheduled to visit her

home in the afternoon, and her husband deliberately instructed her to remain at home so they could catch him red-handed.

10.2 A woman who is allegedly terrified of social stigma and severe harassment would naturally seek immediate protection from her family, society, or law enforcement upon alleged harassment. The deliberate choice to act as a bait, invite the offender into the house, and stage a secret operation with her husband is utterly unnatural, unconvincing, and inconsistent with the behaviour of a genuine victim of harassment.

10.3 The story of setting a pre-arranged trap to catch the petitioner red-handed is an afterthought. It strongly corroborates the defences case that the husband unexpectedly caught the petitioner and the complainant together, and to cover up the domestic fallout, embarrassment, or suspicion arising therefrom, an embellished version of a forced entry and outraging of modesty under Section 354 IPC is concocted.

11. When the foundational premise of the FIR—relying on a staged confrontation cooked up after an unexpected encounter is inherent improbable and lacks judicial creditworthiness, pushing the accused through the rigmarole of a full trial would be abuse of process of law.

12. It would be apt to refer to the observations by the Apex

Court in the case of ***Mahmood Ali & Ors. versus State Of U.P. & Ors.***, reported in **(2023) 15 SCC 488** wherein it is observed:

> *"Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation."*

13. In view of the aforesaid discussion, this Court is of the considered opinion that by reading between the lines the narrative presented in the FIR is unnatural, lacks inherent probability, and stands as an afterthought designed to give a criminal colour to an

entirely different domestic situation. Allowing the prosecution to proceed further would constitute a gross abuse of the process of the Court and falling within the four corners of the ratio laid down by the Hon'ble Supreme Court in the case of ***State of Haryana v. Bhajan Lal reported in 1992 Supp (1) SCC 335***.

14. Accordingly, the petition is allowed. The impugned FIR being FIR being C.R. No. I-32/2016 dated 26.02.2016 registered before the Nilambaug Police Station, Bhavnagar, the Chargesheet dated 25.04.2016, and all consequential proceedings arising therefrom being Criminal Case No. 2838 of 2016 pending against the petitioner, are hereby quashed and set aside. Rule is made absolute accordingly.

**[ P. M. Raval, J. ]**

hiren/1tssd

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 12/10/2026 14:57:16