IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC. APPLICATION (FOR QUASHING & SET ASIDE FIR/ORDER) NO. 33697 of 2016
With
CRIMINAL MISC. APPLICATION (FOR STAY) NO. 1 of 2025
In R/CRIMINAL MISC. APPLICATION NO. 33697 of 2016
With
CRIMINAL MISC. APPLICATION (FOR STAY) NO. 1 of 2026
In R/CRIMINAL MISC. APPLICATION NO. 33697 of 2016

FOR APPROVAL AND SIGNATURE:
HONOURABLE MR.JUSTICE P. M. RAVAL
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Approved for Reporting	Yes	No
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KAMLESH HARILAL GORADIA
Versus
STATE OF GUJARAT & ANR.

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Appearance:
MR BM MANGUKIYA(437) for the Applicant(s) No. 1
MS BELA A PRAJAPATI(1946) for the Applicant(s) No. 1
DS AFF.NOT FILED (R) for the Respondent(s) No. 2
MR ROHAN SHAH, APP for the Respondent(s) No. 1

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

Date : 21/10/2026

ORAL JUDGMENT

1. By way of the present application under Section 482 of the

Code of Criminal Procedure, 1973 ("Cr.P.C."), the petitioner, a retired Deputy Collector (Class-I), has prayed for quashing and setting aside First Information Report being C.R. No. I-1 of 2015 registered with the Anti-Corruption Bureau (ACB) Police Station, Ahmedabad, for offences punishable under Section 13(1)(e) r/w. Section 13(2) of the Prevention of Corruption Act, 1988 ("P.C. Act"), as well as the consequential Charge-sheet bearing No. ACB/KPT/AVD/970/2024 and the resultant criminal proceedings in Special ACB Case No. 17/2021 pending before the learned Special Judge (ACB), Ahmedabad.

2. The petitioner was appointed as a direct recruit Mamlatdar on 10.02.1986, subsequently promoted to the rank of Deputy Collector (Class-I), and superannuated from public service on 28.02.2015.

3. On 06.01.2015, the impugned FIR was registered alleging that during the check period running from 01.01.2000 to 31.12.2008 (a period of 9 years), the petitioner, while serving as a public servant, amassed assets disproportionate to his known, lawful sources of income to the extent of Rs.1,04,16,880/- (213.08%).

4. Following an extensive investigation, a final report under Section 173 Cr.P.C. (Charge-sheet) was filed before the competent court, wherein the investigating agency recalculated the financial figures based on Statements A to D. As per the Charge-sheet, the petitioner's assets stood at Rs.17,92,495/- prior to the check period

and rose to Rs.2,93,94,113/- at the close of the check period. After setting off credited income of Rs.50,94,739/- against expenditure of Rs.7,19,195/-, the alleged disproportionate assets were determined to be Rs.2,32,26,074/- (455.88%). For the sake of convenience, facts as narrated in FIR, in verbatim, are reproduced:

> *"Date: 1.1.2015*
>
> *I, N. M. Sindhi, Police Inspector, Anti-Corruption Bureau, Field Mehsana Unit, Mehsana.*
>
> *The facts of the complaint on behalf of the Government are that I am serving as a Police Inspector in the Anti-Corruption Bureau, Field Mehsana Unit, Mehsana.*
>
> *As Police Inspector, ACB Mehsana, my jurisdiction covers the entire area of Mehsana, Gandhinagar, Sabarkantha, and Aravalli Districts. My duties involve taking legal action under the Prevention of Corruption Act and performing duties entrusted to me by the senior officers of the Bureau.*
>
> *By written Order No. TAPAS/G/VAPI/01/2013/2959 dated 21.09.2013 from the Chief Police Officer and Director, Anti-Corruption Bureau, Gujarat State, Ahmedabad, we received orders stating that Mr. Kamleshbhai Haribhai Goradiya, Deputy Collector Class-1, Headquarters Vyara, Dist. Tapi, currently serving as Deputy Collector, Election Branch, Botad, as a public servant, possesses property disproportionate to his known legal sources of income, amounting to approximately Rs.1,04,16,880/- (Rupees One Crore Four Lakh Sixteen Thousand Eight Hundred Eighty only). Since it prima facie appears that the alleged public servant has acquired disproportionate assets in his name and in the names of his family members, an order was issued under Order No. TAPAS/G/TAPI/01/2013/3754 dated 31.12.14 by the Police Officer and Director, A.C.B., Gujarat State, Ahmedabad, to register an offense under Section 13(1)(e) r/w. Section 13(2) of the*

Prevention of Corruption Act, 1988.

Mr. Kamleshbhai Haribhai Goradiya, Deputy Collector Class-1, Headquarters Vyara, Dist. Tapi, currently Deputy Collector, Election Branch, Botad, has legal salary ownership and other sources of income. His salary income and the movable/immovable assets and expenditure acquired/incurred in his name, prima facie, are as follows:

In the year 2005, the accused acquired land in his name and in the names of his family members at Village: Visoj, Taluka: Kadi, for Rs.1,90,000/- at Mehsana under Survey Nos. 478, 479, 480, 481, total area 2482–487/2.

Purchased 2.18.53 Hectares, Are, and Guntha, for which land purchase consideration was paid by cheque amounting to Rs.1,75,000/- and stamp paper worth Rs.15,000/- was used, totalling a payment of Rs.1,90,000/-.

In the year 2008, while serving at Porbandar, the accused purchased 135 sq. meters of land out of Revenue Survey No. 188/1/P/1 at Village: Chhaya, Taluka & District: Porbandar, as a government servant under the order of the Collector, Porbandar, in his name for Rs.25,798/-.

The accused invested Rs.68,54,207/- in his name and in the names of his family members in IDBI Flexi Bonds, UTI, Bank of India Infotech, ICICI Tax Saving Bond, HDFC Bank Bond, Franklin Templeton Investment Bond, Sundaram Mutual Fund, SBI Mutual Fund, and Reliance Mutual Fund.

The accused transferred Rs.24,00,000/- from his wife's ICICI Bank Account No. 0067010702 to the Ahmedabad Post Office and deposited Rs.18,00,000/- in the Post Office at Chembur, Mumbai, along with Rs.6,00,000/- deposited, making total investments in the Post Office amounting to Rs.24,00,000/-.

In 2005, the accused purchased a TVS Company Scooty from Ahmedabad for Rs.25,000/- in his wife's name from TVS Motors

Ltd.

On 07.02.2005, from Ambika Smruti Co-operative Housing Society Ltd., Division-1 22,19,003/-, behind Rajpath Club, Bodakdev, Ahmedabad, a plot measuring 1500 sq. meters for 24 Shaswat Bungalows was purchased in his wife's name for Rs.6,00,000/-, for which stamp duty on document of Rs.39,053/- was paid by the accused. Thereafter, as per a construction agreement dated 01.09.2006, the accused paid Rs.10,74,000/- to Ambika Smruti Co-operative Housing Society Ltd., Division-1 for constructing a house. After construction, since the property was in his wife's name, it was transferred to his name via a gift deed dated 21.10.2008. On the basis of this gift deed, the house was registered at the Sub-Registrar Office, Memnagar, Ahmedabad with government jantry value where stamp duty of Rs.4,81,500/- and registrar fees of Rs.98,450/- were paid by the accused.

Thus, after initially purchasing the above-mentioned house in his wife's name and subsequently transferring it to his name via gift deed, total investment made by the accused was Rs.22,19,003/-.

In 1996, at Naroda G.I.D.C., the accused purchased Plot No. 25/7 and took necessary steps to establish a factory named Maruti Industries on said plot. However, as the plot land was agricultural, steps were taken to convert it to industrial use. But since government sanction was not granted, no factory was built on said plot. Total amount paid in different years towards plot purchase was Rs.20,05,329/-. However, out of total payments, the accused paid Rs.5,80,912/- by cheque during the check period on 03.02.2000. Thus, during the check period, the accused incurred investment expenditure of Rs.5,80,912/-.

Total Rs.1,22,94,920/-

Thus, according to the above details, the accused made investments in immovable and movable assets in his name amounting to Rs.1,22,94,920/-.

(No.)	Expense Item	Amount (Rs.)
(1)	Electricity Bill	5,40,000/-
(2)	Telephone / Cellphone Expenses	1,08,000/-
(3)	Children's Education Expenses	10,00,000/-
(4)	Travel / Tour Expenses	80,000/-
(5)	Vehicle Maintenance Expenses	24,000/-
(6)	House / Vehicle Taxes, etc.	1,08,000/-
(7)	Other Expenses (Gas Expenses)	21,600/-
(8)	House (Flat) Maintenance Expenses	1,08,000/-
(9)	Purchase of Gold (2003)	10,21,167/-
	Total Expenditure	30,10,567/-

Salary income of the accused from January 2000 to December 2008 was Rs.24,71,271/-. After deducting fixed deductions of Rs.10,15,541/- from salary, the net income was Rs.14,55,730/-. Out of this net income, calculating household expenditure at a minimum rate of 30% amounting to Rs.4,36,719/-, the probable savings remain at Rs.10,19,011/-.

In the Income Tax returns filed by the accused and his wife from 2006 to 2008, the accused's wife showed agricultural income of Rs.6,89,640/-, and the accused showed his income as Rs.3,08,726/- in his returns for 2007–08. Thus, total agricultural income was considered as Rs.9,98,366/-. After deducting 40% agricultural expenses amounting to Rs.3,99,346/-, net agricultural income according to Income Tax returns was Rs.5,99,020/-.

Additionally, investment made in 3i Infotech in the name of the accused and his wife from 1999 to 2003 matured between 2004 and 2006, generating total income of Rs.1,66,876/-.

Furthermore, in 2006, the accused sold 1990 grams of gold held by him to Maruti Bullion, Ahmedabad, generating income of Rs.16,11,900/-. The accused also withdrew Rs.14,92,000/- from his G.P.F. Account between 2004 and 2008, which was received as income.

Thus, total net income from salary savings (Rs.10,19,011/-), agricultural income (Rs.5,99,020/-), maturity of investments (Rs.1,66,876/-), sale of gold (Rs.16,11,900/-), and G.P.F. withdrawals (Rs.14,92,000/-) amounts to Rs.48,88,807/-.

During the period from 01.01.2005 to 31.12.2008, accused Mr. Kamleshbhai Haribhai Goradiya, Deputy Collector Class-1, Headquarters Vyara, Dist. Tapi, currently Deputy Collector, Election Branch, Botad, incurred expenditure and investment expenses of Rs.30,10,367/- + Rs.1,22,94,920/- = Rs.1,53,05,687/-. Whereas during this period, his total probable savings including salary and other income were Rs.48,88,807/-. Therefore, investment/expenditure exceeds income by Rs.1,04,16,880/-, which is considered disproportionate investment/expenditure by the accused.

Apart from this, accused Mr. Kamleshbhai Haribhai Goradiya, Deputy Collector, Class-1, Headquarters Vyara, Dist. Tapi, currently Deputy Collector, Election Branch, Botad, has apparent expenses such as investments made in banks, post offices, private firms, gold/silver ornaments, and financial institutions like L.I.C., etc., as well as shares, vehicle maintenance expenses, electricity/telephone bills, house tax, vehicle tax, income tax, and other taxes paid, purchase of electrical appliances and furniture, educational expenses, and donations/gifts/expenses given on social occasions, along with details of other investment expenses. Upon receiving these details, the figure of investment expenditure is likely to increase significantly. Furthermore, detailed evaluation of immovable properties, fixed furniture, raw materials, etc., is also likely to increase the investment expenditure figure.

Moreover, there is a possibility of investments found in other named/benami properties, and in this manner,

investment/expenditure by the accused is likely to increase further.

Looking at the above details, accused Kamleshbhai Haribhai Goradiya, Deputy Collector Class-1, Headquarters Vyara, Dist. Tapi, currently Deputy Collector, Election Branch, Botad, while discharging duties as a public servant from 10.02.1986 till date, indulged in corrupt practices, misused his official position, committed criminal misconduct, illegally acquired money for personal gain, and prima facie made disproportionate investments/expenditure amounting to Rs.1,04,16,880/- (Rupees One Crore Four Lakh Sixteen Thousand Eight Hundred Eighty only) out of such money. Since he has committed an offense punishable under Section 13(1)(e) r/w. Section 13(2) of the Prevention of Corruption Act, 1988, my complaint is to take lawful action against him.

My witnesses are those who turn up during investigation and documentary evidence recovered during investigation. Hence, the facts of my complaint are correct and true.

(N. M. Sindhi),
Police Inspector, A.C.B. Field Mehsana Unit."

5. Learned Advocate Mr. B M.Mangukia has argued at length and has taken to various statements, accounts as well as affidavits of witness and statements forming part of the Charge-sheet. The crux of arguments of learned advocate Mr. B M. Mangukia is to the following effect:

5.1. **Background & Profile of the Petitioner:**

5.1.1 **Service Profile:** The petitioner, Mr. Kamleshbhai Haribhai Goradiya, was appointed as a direct recruit Mamlatdar on

10.02.1986. He subsequently served as Deputy Collector (Class-1) and retired from service on 28.02.2015, currently receiving a monthly pension of approximately Rs.39,000/-.

5.1.2 **Family & Matrimonial Relations:** The petitioner married his wife (Beenaben) in 1991, with whom he has three children: Dimple (unmarried, CS student), Ashuta (unmarried, M.A. student), and Parthiv (son). On account of marital disputes, the petitioner and his wife have lived separately since the year 2000 as per the say of wife herself.

5.1.3 **Family Responsibilities**: The petitioner currently resides with and supports his 93-year-old mother (Girijaben) and two elderly sisters—Hansaben (69, divorcee) and Neelaben (62, unmarried).

5.2 **History of Malicious & Serial Litigations by the Estranged Wife:**

The petitioner contends that the present FIR is an offshoot of a deliberate pattern of harassment, coercion, and "arm-twisting" orchestrated by his estranged wife to tarnish his image as a public servant and compel him and his family to yield to her demands:

5.2.1 **Matrimonial & Civil Proceedings:**

a) Filed Hindu Marriage Petition No. 492 of 2009 in the

Family Court, Ahmedabad.

b) Filed Special Civil Suit No. 144 of 2009 seeking cancellation of the gift deed and injunction regarding the residential property at Shaswat Bungalows.

5.2.2 **Cruelty Complaint & 'B' Summary Report:**

a) Lodged FIR C.R. No. I-9 of 2011 (under Sections 498A, 323, 114 IPC) against the petitioner and his family members.

b) **Outcome**: The Joint Police Commissioner (Crime Branch, Ahmedabad) approved a Class 'B' Summary draft report (dated 18.07.2011 / 21.07.2011), finding that the complaint was false, frivolous, and lodged maliciously to harass the petitioner and his family. The report also noted that the complainant was residing separately to pursue illicit relations.

5.2.3 **Domestic Violence & Maintenance Cases:**

a) Filed Criminal Misc. Application No. 1538 of 2010 under the Domestic Violence Act. Maintenance awarded initially at Rs.23,000/-, reduced on appeal to Rs.16,000/-, and subsequently modified in Special Civil Application No. 586 of 2011 back to Rs.23,000/- per month.

5.2.4 **Forgery Allegations (Satellite Police Station):**

a) Lodged FIR C.R. No. I-69 of 2016 (under IPC Sections 420, 464, 467, 468, 472) alleging fraudulent opening of a joint bank account. The petitioner was granted regular bail.

5.2.5 **High-Handed Dispossession & Threat:**

a) Immediately following the petitioner's arrest on 14.06.2016 in the aforementioned FIR, the complainant wife along with associates forcibly took illegal possession of the petitioner's residential bungalow (House No. 24, Shaswat Bungalows, Bodakdev), locked it, stationed security guards, and physically threatened/assaulted the petitioner when he attempted to enter his own home.

5.2.6 **Land Forgery Allegations (Kadi Police Station):**

a) Lodged FIR C.R. No. I-147 of 2016 alleging land forgery at Village: Vidaj. The petitioner was granted anticipatory bail.

b) **High Court Stay**: In Criminal Misc. Application No. 31302 of 2016 (Coram: J.B. Pardiwala, J.), the Hon'ble High Court *vide* order dated 05.12.2016 stayed further investigation into the said FIR.

6. **Substantive Legal & Factual Grounds against ACB FIR (C.R. No. I-1/2015):**

6.1 The petitioner seeks quashing of C.R. No. I-1 of 2015 (and the consequential Charge-sheet / Special ACB Case No. 17/2021) on the following grounds:

6.1.1 **Selective Fixation of the Check Period:**

a) The Investigating Officer (I.O.) arbitrarily fixed the "check period" from 01.01.2000 to 31.12.2008 (9 years).

b) The petitioner was appointed as a direct recruit Mamlatdar on 10.02.1986. The I.O. completely ignored and omitted the petitioner's legitimate accumulated income and savings earned over nearly 14 years of prior public service (10.02.1986 to 31.12.1999). Selecting a piecemeal period rather than evaluating the entire tenure of service is impermissible and legally unsustainable.

6.1.2 **Wrongful Inclusion of Independent Income & Assets of the Estranged Wife**:

a) In her foundational application dated 25.06.2013, the wife explicitly admitted that she has been residing separately since the year 2000 with her three children and bearing all

their expenses independently.

b) Thus, she was not dependent on the petitioner from 2000 onwards. Imputing and tagging the independent investments, assets, and financial transactions made by the wife, her parents (father and mother), and her family as the petitioner's income/assets is wholly baseless and contrary to the prosecution's own documentary record.

6.1.3 **Disregard of Direct Affidavit Evidence regarding Third-Party Gifts:**

a) The I.O. ignored sworn affidavits executed by independent third parties confirming voluntary monetary gifts given out of love and affection to the wife and children:

i) Mr. Chintan Hiren Patel: Swore affidavits (30.03.2004 and 26.03.2004) verifying gifts of Rs.1 Lakh to Beenaben, Rs.1.50 lakh to daughter Dimple, and Rs.1 Lakh to son Paritosh.

ii) Ramilaben Hiren Patel & Geetaben: Swore affidavits (26.03.2004) confirming monetary gifts given to Beenaben and the children.

iii) Patel Hiren: Swore an affidavit confirming gifts

of Rs.50,000/- to Asuna, Rs.1.50 lakh to Beenaben, and Rs.1 Lakh to Paritosh.

iv) Since these affidavits form part of the prosecution's own investigation record, the prosecution cannot resile from its own evidence.

6.1.4 **Wrongful Inclusion of Unrelated Loans & Independent Incomes of Major Sisters:**

a) Unsubstantiated Loan Tagging: Loans legitimately obtained by the petitioner from friends and relatives were treated as the petitioner's own undisclosed income disguised as gifts, purely on the basis of assumptions, surmises, and conjectures of the I.O. without any contrary evidence.

b) Independent Incomes of Sisters: The I.O. tagged the income and investments of the petitioner's two sisters (Hansaben and Neelaben) as the petitioner's income. Both sisters are adult, major, and independent individuals with their own legal sources of income. Tagging their independent assets on mere suspicion in the absence of material on record is legally unsustainable.

6.1.5 **Flawed Mutual Fund Calculations & Recycling of Funds:**

a) UTI & Mutual Fund Re-investments:

i) The prosecution alleged UTI Mutual Fund investments totalling Rs.47,27,828/-.

ii) The I.O. repeatedly counted the recycling and re-investment of the same underlying funds/matured proceeds. For example, an alleged investment of Rs.4 lakh on 05.12.2007 was never made, reducing actual original investments to Rs.27 lakh. Failing to give credit for fund rotation artificially inflated the asset tally.

b) Reliance Mutual Funds Contradictions:

i) The I.O. made contradictory assertions alleging an investment of Rs.47 lakh versus an actual investment of Rs.30 lakh, demonstrating a casual and careless approach.

c) Property Valuation & Unilateral Banakhats:

i) Regarding Naroda G.I.D.C. Plot No. 25/7/B, independent Banakhats (Agreements to Sell) executed unilaterally by the complainant wife with third parties (Mr. Gokulesh Patel and Tamanna Developers) were

wrongly entangled into the petitioner's asset calculations.

7. **Legal Submissions under Sections 13(1)(e) and 13(2) of the Prevention of Corruption Act, 1988:**

7.1 Section 13(1)(e) r/w. Section 13(2) requires proof that a public servant (or any person on his behalf) is in possession of pecuniary resources or property disproportionate to known sources of income which cannot be satisfactorily accounted for.

7.2 None of the essential ingredients of Sections 13(1)(e) and 13(2) are satisfied in this case. When the arbitrarily omitted past service income, recycled investments, third-party gifts backed by affidavits, legitimate loans, and independent assets of the estranged wife and major sisters are properly credited/excluded, no disproportionate assets remain.

7.3 The FIR is an offshoot of personal malice lodged with ulterior motives to settle private scores, constituting a gross abuse of the process of law and Court.

7.4 **Investigation & Delay**: The FIR was registered on 06.01.2015 for the check period 01.01.2000 to 31.12.2008. The accused was arrested on 28.10.2020, and the final report under Section 173 Cr.P.C. was filed thereafter in 2020—a delay of nearly

six years in an investigation resting entirely on documentary evidence.

7.5 **Contradictory Computations (FIR vs. Charge-Sheet):**

7.5.1 FIR Computation: Alleges lawful income of Rs.48,86,807/- against investment/expenditure of Rs.1,53,05,687/-, yielding disproportionate assets of Rs.1,04,18,880/- (213.08%).

7.5.2 **Charge-Sheet Computation**:

a) Annexure-A (Assets before check period): Rs.17,92,495/-.

b) Annexure-B (Assets at the end of check period): Rs.2,93,94,113/-.

c) Annexure-C (Income credited): Rs.50,94,739/-.

d) Annexure-D (Expenditure): Rs.7,19,195/-.

e) Investments during check period (B minus A): Rs.2,76,01,618/-.

f) Savings (C minus D): Rs.43,75,544/-.

g) Disproportionate Assets: Rs.2,32,26,074/- (455.88%).

7.5.3 **Arbitrary Doubling**: The alleged disproportion more than doubled between the FIR and Charge-sheet for the exact same check period, proving that the figures are conjectural estimates arrived at by choice of accounting method rather than factual

determination.

8. ANALYSIS OF INCOME COMPUTATION (STATEMENT-C):

8.1.1 The Investigating Officer (I.O.) credited only six heads of income, totalling Rs.50,94,739/-:

Head of Income (Statement-C)	Name / Person	Credited Amount (Rs.)
Salary Savings (Gross salary Rs.24,71,271 less fixed deductions Rs.10,15,541 = Rs.14,55,730; + D.A. diff. Rs.7,466 = Rs.14,63,197; less 30% notional household exp.)	Kamleshbhai Goradiya	10,24,378/-
G.P.F. Withdrawals (2004 to 2008)	Kamleshbhai Goradiya	14,92,000/-
Agricultural Income (Wife's returns 2006–08 Rs.6,89,640 less arbitrary 30% farming exp. = Rs.4,82,748; + Accused return A.Y. 2007–08 Rs.3,08,723)	Kamleshbhai & Binaben	7,91,471/-
Maturity of 3i Infotech Investment (1999)	Kamleshbhai & Binaben	1,20,045/-
Maturity of U.T.I. Mutual Fund (1995)	Kamleshbhai Goradiya	54,945/-
Sale of Gold (Redemption of India Gold Bonds 1993/1998; ~1,986 gm sold to Maruti Bullion)	Kamleshbhai Goradiya	16,11,900/-

Head of Income (Statement-C)	Name / Person	Credited Amount (Rs.)
Total Income Credited		**50,94,739/-**

8.1.2 **Fatal Omissions in Income Computation:**

a) **Refusal to Attribute Family Income:** No independent income whatsoever is attributed to the wife (Smt. Binaben) beyond her IT returns (which were arbitrarily reduced by 30%), nor to the son (Paritosh), daughters, HUF, or relatives.

b) **Asymmetrical Aggregation:** While the I.O. refused to credit the family's independent receipts, the I.O. aggregated all assets standing in their names—including Binaben's Franklin Templeton, Sundaram, Fidelity, and Reliance folios, Central Bank/PNB Accounts, children's Kalupur Bank accounts, HUF folios, and post-office deposits—against the accused.

9. Treatment Of Sales Of Shares, Securities & Rotated Funds:

9.1 The Charge-sheet record itself reveals multiple redemption and sale events where proceeds were rotated back into new instruments, which the I.O. completely ignored on the income side:

a) 3i Infotech / ICICI Tax Saving Bonds: Investments (1999–2003) matured between 2005 and 2008 receiving ~ Rs.2,05,100/- (Approx.); I.O. credited only Rs.1,20,045/- + interest Rs.13,425/-.

b) IDBI Flexi bonds: Staged interest and principal realizations during check period were ignored.

c) Franklin Templeton (6 Folios of Binaben): Aggregate gross investments of Rs.24,50,000/- were counted as assets, but the Rs.25,03,299/- received back on redemptions was completely uncredited on the income side.

d) Sundaram Mutual Fund: Folio SBBNA was redeemed at Rs.7,92,259/- and re-invested in the same folio within months; total group realizations of Rs.15,85,283/78 were omitted.

e) Fidelity Equity Fund: Binaben's folios redeemed Rs.2,15,293/- on 04.10.2005 plus further redemptions; ignored as income.

f) UTI Mutual Fund: Periodic investments aggregating ~ Rs.31,00,000/- were counted as gross assets, but subsequent redemptions/1995 maturity units (Rs.54,945/-) were barely credited.

g) Reliance Mutual Fund (Folio 40162399123): Gross investments of Rs.31,00,000/- were counted, whereas Statement-B itself records a net investment of only Rs.20,00,000/- (reflecting Rs.11,00,000/- redeemed).

h) Government of India 8% Tax-Free Bonds (2003): Periodic interest streams across Rs.27,84,000/- worth of bonds were uncredited in Statement-C.

10. **Cumulative Infirmities In Computation:**

10.1 **Double Counting of Rotated Funds:** The formula DA = (B - A) - (C-D) counts every gross purchase as a fresh asset while ignoring redemption inflows, effectively counting rotated money 2 to 3 times. Once redemption inflows are set off, the gross investment figure of Rs.2,76,01,618/- collapses.

10.2 **Double Deduction of Household Expenses:** A 30% notional haircut was deducted upfront from gross salary in Statement-C, and then actual household outgoings (electricity, education, travel, municipal taxes) were debited *again* in Statement-D (Rs.7,19,195/-).

10.3 **Arbitrary Farming Haircut:** A 30% reduction was applied to declared agricultural income accepted by Income Tax authorities without any supporting material.

10.4 **Exclusion of Family & HUF Money Trails:** Refusal to credit explained receipts (including Rs.53,07,007/- from Amreli relatives) while aggregating their assets.

10.5 **Omission of Accruals:** Total omission of interest, dividend, and maturity accruals on over Rs.27.84 lakh of GOI bonds and mutual fund folios.

11. **The Amreli Money Trail (Rs.53,07,007/-):**

11.1 The prosecution's own Charge-sheet documents explain the receipt of funds from the accused's family in Amreli:

a) Trench 1 (Amreli Bank Accounts): Passbooks and statements of Bharatbhai, Hetalben, Dakshaben, Dalichandbhai, and Pushpaben Goradiya establish cash deposits and substantial operational balances. Bharatbhai's signed statement confirms that family funds belonging to him, his father Dalichandbhai, and mother Pushpaben were pooled.

b) Trench 2 (Transfer to HUF & Binaben Folios): In 2007, these family moneys were handed over for investment in mutual funds under Smt. Binaben and Kamlesh Harilal Goradiya HUF, supported by Powers of Attorney executed by Dakshaben and Sonalben. The accused's statement

quantifies these receipts at Rs.53,07,007/-.

c) Trench 3 (Destination Folios): Statement-B corroborates that these funds went directly into UTI and Reliance HUF/Binaben folios. The I.O. counted these destination folios as unexplained assets of the accused while completely ignoring the family's source statements and bank trail.

12. **Crux of the Grounds For Quashing The Fir And Charge-Sheet:**

12.1 Arithmetical Collapse on Prosecution's Own Documents: Taking the Charge-sheet at its highest, the computation fails on its face once redemption inflows and fund rotation documented by RTA replies (Book-4) are set off.

12.2 Disregard of Furnished Explanations: The I.O. failed to consider the accused's detailed statements (dated 02.10.2020, 08.10.2020, and 18.10.2020) and supporting documentary proof (bank statements, POAs, gift affidavits) already forming part of the Charge-sheet.

12.3 Illegality of Asymmetrical Aggregation: Aggregating assets of the wife, children, HUF, sisters, and parents-in-law without attributing their independent receipts or arraying them as accused/co-conspirators vitiates the entire computation.

12.4 Wild Discrepancy Betraying Non-Application of Mind: The unexplained jump in alleged disproportion from 213% in the FIR to 455% in the Charge-sheet for the exact same check period demonstrates that the figures are purely conjectural.

12.5 Prejudicial Delay: Unexplained delay of nearly six years between the FIR (2015) and Charge-sheet (2020) in a purely document-based case causes severe prejudice.

13. ***Per contra,*** learned Additional Public Prosecutor Mr. Rohan Shah would submit that a strong prima-facie case is made out against the petitioner. The details of calculations as canvassed can be gone only during Trial and that too also by trial Court since this Court is not to conduct Mini Trial at the stage of quashing which is not permissible as per settled law.

14. It is further argued that the persons from whom the loan as well as amount for investment is taken is in a particular period of time and that even gifts received are in a particular period and that the *modus oprendi* of the petitioner is reflected from the details mentioned in the Charge-sheet. That all the transactions by the persons form whom either loan is taken or is taken as loan have deposited a huge sum of cash in equal instalments and then transferred the said amount in the account of petitioner/wife and that said amount is also given back in cash for which there is no account. Thus, it is argued that when a person having a meagre

salary has amassed huge amount of money which is unaccounted and for which there is no explanation coming forth and that to also does not inspire confidence is as much as the period of receipt of amount from various persons are not so financially well to do so as to lend such a huge amount either as loan or either as an amount for investment on their behalf and that the petitioner name is also reflecting in Bank account as nominee which reflects *mens rea* and has thus argued to reject the petition.

15. It is further argued that merely because some investments are in the name of wife or other relatives it cannot be said that the said amount is earned by the petitioner and that the argument that wife is living separately and maintaining his children and therefore properties in the name of wife cannot be consider after her living separately cannot be looked in to at the very nascent stage since these aspects are defence and can be tested only after full fledge trial where after examination and cross examination the trial Court will test the same on the settled principles of Indian Evidence Act and presumptions under the PC Act and hence argued reject the petition.

16. The State placed heavy reliance upon the decisions of the Hon'ble Supreme Court in:

16.1 ***State of CBI v. Thommandru Hannah Vijayalakshmi & Anr., (2021) 18 SCC 135***; and

16.2 ***State of Chhattisgarh v. Aman Kumar Singh & Anr., (2023) 6 SCC 559***, to contend that where the Charge-sheet/FIR discloses prima facie ingredients of disproportionate assets, the High Court ought not to interfere under Section 482 Cr.P.C.

17. In response to the precedents cited by the State, learned Counsel for the petitioner submitted that both ***Thommandru Hannah Vijayalakshmi (supra)*** and ***Aman Kumar Singh (supra)*** were rendered in the context of quashing an FIR at the preliminary stage of investigation, where the investigating agency had not yet evaluated the complete record. In the present case, the investigation is complete, a full Charge-sheet comprising all documentary evidence has been filed, and the patent arithmetical absurdity and non-application of mind appear on the face of the prosecution's own Charge-sheet documents without requiring any external defence evidence.

18. **ANALYSIS:**

18.1 This Court has given meticulous consideration to the rival submissions, the Charge-sheet compilation, and the settled legal principles governing Section 482 Cr.P.C. Each contention raised by the petitioner is dealt with below:

18.2 **Contention 1: Matrimonial Malice, Serial Litigations & 'B' Summary Report:**

18.2.1 **Petitioner's Argument:** The FIR is tainted with personal malice arising out of marital discord, and prior complaints lodged by the wife were found false.

18.2.2 **Finding:** It is a well-settled principle of criminal jurisprudence, that personal malice or animus on the part of an informant/complainant is irrelevant if the material gathered during investigation independently discloses the commission of a cognizable offence.

18.2.3 While matrimonial litigations and the filing of a 'B' Summary in a Section 498A IPC case are matters of record, the present prosecution is under the Prevention of Corruption Act, 1988. Once the investigating agency conducted an independent inquiry and placed objective documentary evidence on record regarding financial transactions, bank deposits, and property acquisitions, the initial motive of the informant recedes into the background. Private malice cannot eclipse public accountability under corruption law. Hence, this contention is rejected.

18.3 **Contention 2: Arbitrary Fixation of Check Period (2000–2008)*:***

18.3.1 **Petitioner's Argument:** The I.O. selected a piecemeal 9-year check period, ignoring 14 years of prior public service (1986–1999) and accumulated savings.

18.3.2 **Finding:** The selection of a check period is within the lawful domain of the investigating agency based on the period during which maximum disproportionate acquisitions are suspected to have occurred. In ***State of Maharashtra v. Pollonji Darabshaw Mistry*, reported in *1987 Supp SCC 379***, Apex Court held that the choice of the period must necessarily be determined by the allegations of fact on which the prosecution is founded and rests. However, the period must be such as to enable a true and comprehensive picture of the known sources of income and the pecuniary resources and property in possession of by the public-servant either by himself or through any other person on his behalf, which are alleged to be so disproportionate. In the facts and circumstances of a case, a ten year period cannot be said to be incapable of yielding such a true and comprehensive picture.

18.3.3 If the petitioner asserts that he possessed accumulated savings from his service prior to 01.01.2000, the burden lies squarely upon him under Section 106 of the Indian Evidence Act to establish the exact quantum of such prior savings brought forward into the check period. This requires leading evidence before the trial Court. The selection of a 9-year check period does not *per se* vitiate the Charge-sheet.

19. **Contention 3: Accounting Absurdities, Fund Rotations & Non-Crediting of Redemption:**

19.1 **Petitioner's Argument:** The Charge-sheet counts gross mutual fund purchases as assets without crediting redemption inflows, leading to double/triple counting of rotated funds.

19.2 **Finding:** This Court acknowledges that the petitioner has presented an elaborate working analysis regarding mutual fund folios (Franklin Templeton, Sundaram, Reliance, UTI) and bond redemptions. However, determining whether a specific financial transaction represents "fresh investment" or "rotated capital" is a matter of complex accounting evidence.

19.2.1 **In *State of CBI v. Thommandru Hannah Vijayalakshmi & Anr.*, (2021) 18 SCC 135**, the Supreme Court specifically held that the High Court under Section 482 Cr.P.C. cannot perform accounting reconciliation, adjust financial ledgers, or act as an auditor.

19.2.3 Whether redemption proceeds were actually re-invested or diverted elsewhere, and whether cash deposits prior to transactions constituted rotated money or unaccounted cash, are disputed factual issues. The learned APP has pointed out that equal cash installments were deposited in bank accounts prior to these investments. Therefore, setting off these amounts without full cross-examination of bank officers and financial experts would amount to conducting an impermissible "mini-trial."

20. **Contention 4: Asymmetrical Aggregation of Family/Sisters' Assets vs. Exclusion of Income & Gifts:**

20.1 **Petitioner's Argument:** Assets of the estranged wife, major independent sisters, and in-laws were aggregated against the petitioner, while their independent sources and third-party gift affidavits were ignored.

20.2 **Finding:** Under Section 13(1)(e) of the P.C. Act, the prosecution is entitled to include assets held by a public servant *or by any person on his behalf*. In ***P. Nallammal v. State, (1999) 6 SCC 559***, the Supreme Court held that the offense of acquiring and possessing disproportionate assets under Section 13(1)(e) of the PC Act can be abetted by non-public servants under Section 109 of the IPC.

20.3 The defence that the wife lived separately, that sisters had independent means, or that third parties provided genuine gifts supported by affidavits are statutory defences under Section 13(1)(e). Sworn affidavits executed by private individuals do not automatically carry conclusive evidentiary weight without the witnesses stepping into the witness box to face cross-examination. The validity of these gifts and the financial capacity of the donors must be tested at trial, though such affidavits are part of the Charge-sheet.

21. **Contention 5: Double Haircut on Household Expenses:**

21.1 **Petitioner's Argument:** Deducting a 30% haircut from salary savings in Statement-C while debited actual household expenses in Statement-D constitutes double deduction.

21.2 **Finding:** While Statement-C reflects a 30% deduction from salary and Statement-D lists specific outgoings (electricity, education, municipal taxes), this represents a conflict in expenditure estimation methods. A perusal of the Charge-sheet methodology reveals that the 30% notional deduction applied in Statement-C represents a standardized baseline estimate for un-receipted daily living expenses (such as food, kitchen running costs, and daily cash outlays) where specific bills are unavailable. Conversely, Statement-D specifically enumerates verified, bank-transacted, or documentary expenditure items such as institutional education fees, municipal property taxes, electricity utility payments, and travel expenses. Whether the 30% standard haircut in Statement-C was intended to subsume the specific municipal and educational outgoings listed in Statement-D, or whether they constitute two distinct categories of expenditure, is a pure question of accounting fact and evidence. Alleged overlaps or disputes regarding notional vs. actual expenditure estimates do not render the Charge-sheet void ab initio. Instead, they constitute matters of defence that the accused public servant can challenge during the cross-examination of the Investigating Officer or during the

framing of charge/trial before the Special Court.

22. **Contention 6: Inapplicability of Apex Court Precedents at the Charge-Sheet Stage:**

22.1 **Petitioner's Argument:** ***Thommandru Hannah Vijayalakshmi (supra) and Aman Kumar Singh (supra)*** involved FIR quashing, whereas here a full Charge-sheet has been filed therefore, facts of the present stands on different footing.

22.2 **Finding:** The distinction sought to be drawn by the petitioner is legally untenable. The principle that the High Court shall not conduct a mini-trial or appreciate evidence applies with equal, if not greater, force after a Charge-sheet is filed.

22.2.1 Once the investigating agency compiles the final report under Section 173 Cr.P.C. along with witness statements and documentary evidence, the statutory venue for evaluating whether a prima facie case exists is the trial Court (at the stage of considering discharge under Section 227 or Section 239 Cr.P.C.). The filing of a Charge-sheet does not widen the narrow portal of Section 482 Cr.P.C. to permit a full-scale appreciation of evidence.

23. **Contention 7: Uncredited Third-Party Gift Affidavits (Chintan Patel, Ramilaben, Geetaben, Hiren Patel):**

23.1 **Petitioner's Argument:** The Investigating Officer completely ignored sworn affidavits executed on 26.03.2004 and 30.03.2004 by Chintan Hiren Patel, Ramilaben Hiren Patel, Geetaben, and Patel Hiren confirming voluntary monetary gifts given out of love and affection to Smt. Beenaben and the children.

23.2 **Finding:** Under Indian criminal jurisprudence, an affidavit sworn by a private individual during a police investigation does not possess statutory sanctity or conclusive evidentiary value unless the maker of the affidavit enters the witness box during trial, deposes on oath, and successfully withstands cross-examination. The Apex Court in the case of ***Sudha Devi v. M.P.Narayanan and Others*** **reported in** ***(1988) 3 Supreme Court Cases 366***, observed that: *".....Besides, affidavits are not included in the definition of 'evidence' in S. 3 of the Evidence Act and can be used as evidence only if for sufficient reason court passes an order under Order XIX, Rules 1 or 2 of the Code of Civil Procedure..."* Though, this judgement is in reference to civil matter the law that affidavits are not included in definition of evidence holds good even for criminal matters.

23.2.1 Whether these gifts were genuine acts of love and affection or colourable devices to mask unaccounted funds is a disputed question of fact. The prosecution is not legally bound to accept exculpatory affidavits collected during investigation without testing their veracity at trial. Hence, non-crediting of private gift

affidavits at the Charge-sheet stage does not justify quashing.

24. **Contention 8: Micro-Breakdown of Mutual Fund Redemptions & Bond Rotation:**

24.1 **Petitioner's Argument:** Specific ledger-level reconciliation demonstrates that gross investments (e.g., Rs.24.5 lakh in Franklin Templeton, Rs.11 lakh redeemed in Reliance, and Sundaram SBBNA redemptions of Rs.7.92 lakh) were counted twice without crediting redemption inflows.

24.2 **Finding:** This submission represents a micro-level accounting audit. As laid down by the Hon'ble Supreme Court in ***State of CBI v. Thommandru Hannah Vijayalakshmi,*** **reported in *(2021) 18 SCC 135***, the High Court exercising jurisdiction under Section 482 Cr.P.C. is neither an auditor nor an appellate accounting forum.

24.2.1 Verifying whether a specific redemption cheque was re-invested into the exact same folio or diverted elsewhere requires detailed examination of bank clearing scrolls, ledger statements, and oral testimony—an exercise strictly reserved for a full-fledged trial.

25. **Contention 9: The Amreli Money Trail (Trench 1, 2, 3 & Identity Discrepancy "Kansara" vs. "Goradiya"):**

25.1 **Petitioner's Argument:** The cash flow from Amreli accounts (passbooks of Bharatbhai, Hetalben, Dakshaben, Dalichandbhai, Pushpaben), pooled family funds (Rs.53,07,007/-), and Powers of Attorney were ignored, and there exists a discrepancy in surnames ("*Kansara*" *vs.* "*Goradiya*").

25.2 **Finding:** The prosecution's case is that these cash deposits and transfers were part of a coordinated modus operandi involving cash re-routing. The legitimacy and financial capacity of the Amreli relatives to generate over Rs.53 lakh in cash/deposits must be tested through oral and documentary evidence at trial inasmuch as, deposit for amount not exceeding Rs.49,000/- per transaction in cash is a camouflage to avoid the rigours of Income-Tax.

25.2.1 The discrepancy in surname ("*Kansara*" *vs.* "*Goradiya*") is a typographical or identity issue appearing in records, which under Section 465 Cr.P.C. is curable during trial and does not vitiate the substratum of the Charge-sheet.

26. **Contention 10: Wild Variance in Calculations (FIR Rs.1.04 Cr vs. Charge-Sheet Rs.2.32 Cr / 213% to 455%):**

26.1 **Petitioner's Argument:** The alleged disproportionate assets more than doubled between the FIR and the Charge-sheet for the exact same check period, proving that the figures are purely

conjectural.

26.2 **Finding:** An FIR is only an initiation of a criminal law mechanism and is not an exhaustive accounting document. As an investigation progresses, collection of bank statements, replies, and deeper asset identification naturally leads to a more comprehensive quantification of assets. An upward revision in the final Charge-sheet computation reflects the culmination of a detailed probe rather than an inherent legal illegality. A difference between FIR estimates and Charge-sheet figures is not a ground for quashing. As held by the Apex Court in the case of ***Amit Kapoor Vs. Ramesh Chander and Anr.*** **reported in** ***AIROnline 2012 SC 668* : *(2012) 9 SCC 460*** that even where the Charge-sheet under section 173(2) of the Code suffers from fundamental legal defects, the Court may be very well within its jurisdiction to frame a charge.

27. **Contention 11: Six-Year Investigation Delay (2015 to 2020):**

27.1 **Petitioner's Argument:** There was an unexplained delay of nearly six years between the registration of the FIR (06.01.2015) and the filing of the Charge-sheet (2020) in a purely document-based case.

27.2 **Finding:** While delay is a relevant factor, in complex economic offences and disproportionate assets cases involving

voluminous banking records, multi-city asset tracing, and financial analysis, a prolonged investigation period does not automatically cause irremediable prejudice or invalidate the Charge-sheet.

27.3 No statutory bar of limitation under Section 468 Cr.P.C. is attracted, as the offences under the P.C. Act carry imprisonment exceeding three years. Prejudice caused by delay, if any, is a ground to seek an expeditious trial before the Special Court, not quashing under Section 482 Cr.P.C.

28. In view of the detailed discussion above, this Court finds that the Charge-sheet and accompanying material disclose a *prima facie* case for offences punishable under Section 13(1)(e) r/w. Section 13(2) of the Prevention of Corruption Act, 1988. In exercise of its powers under Section 482 of Cr.P.C./528 of BNSS, 2023, this Court is not required to hold a full-fledged inquiry or to appreciate evidence collected by the investigating agency to find out whether the case would result into acquittal or conviction. Same has to be left to the trial Court and the trial should be allowed to reach its logical conclusion.

28.1 In the instant case, the factual foundation of the offence with which the petitioner has been charged has been laid down in the Charge-sheet. This Court cannot embark upon an enquiry as to the genuineness or otherwise of the allegations made therein and same has to be left to be decided by the trial Court in the trial. The

petitioner shall be able to raise all his defences before the trial Court and the trial Court shall have the benefit of going through and marshalling the evidence on record and of considering the case of both sides before coming to a conclusion of guilt or otherwise of the petitioner in the trial. This Court cannot embark into the same journey as it cannot sit on a mini-trial in exercise of its extraordinary inherent jurisdiction under Section 482 of Cr.P.C./528 of BNSS, 2023. This Court is of considered opinion that this is not an exceptional case where non-interference would result in miscarriage of justice.

28.2 All the contentions raised by the petitioner—including fund rotations, redemption credits, check period selection, independent family incomes, and gift affidavits—are left open to be raised as defences before the learned trial Court. The trial Court shall adjudicate these issues on their own merits based on the evidence adduced during trial, uninfluenced by any observations made in this judgment.

29. The present Criminal Miscellaneous Application under Section 482 Cr.P.C. is hereby dismissed. The learned Special Judge (ACB), Ahmedabad is directed to proceed with Special ACB Case No. 17/2021 in accordance with law. Rule is discharged. Interim relief, if any, stands vacated.

29.1 Pending applications shall stand disposed in view of dismissal of the main application.

[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 21/10/2026 14:16:41