IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 13898 of 2024

==========

DHANKIBEN @ DHANBEN CHHAGANBHAI NAYKA & ANR.

Versus

STATE OF GUJARAT & ORS.

==========

Appearance:
MR BHARAT T RAO(697) for the Applicant(s) No. 1,2
MS DHWANI TRIPATHI, ADDL. PUBLIC PROSECUTOR for the Respondent(s) No. 1

==========

CORAM:**HONOURABLE MR. JUSTICE J. C. DOSHI**

Date : 29/10/2026

ORDER

What appears that in Special Criminal Application No.9096 of 2024, the Coordinate Bench of this Court, on 13.8.2024, has passed following order:-

> *"1. Rule. Learned Additional Public Prosecutor waives service of rule on behalf of respondent No.1 – State.*
>
> *2. By this writ-application under Article 226 of the Constitution of India, the applicant has a grievance to redress as regards the inaction on the part of the police authority in not registering the First Information Report pursuant to the complaint lodged by him in writing dated **2nd January 2024** addressed to the Police Inspector, **Pardi Police Station, Valsad**.*
>
> *3. The Police Inspector, **Pardi Police Station, Valsad**, is directed to take into consideration the complaint filed by the petitioner in writing (**Annexure - F** to this petition) and after going through the same,*

take a decision, whether the same discloses commission of a cognizable offence or not. Police authority shall follow the directions issued by Hon'ble Apex Court in the case of ***Lalita Kumari V/s. Government of Uttar Pradesh and others*** *reported in* ***(2014) 2 SCC 1*** *as well as in the case of* ***State of Telangana V/s. Habib Abdullah Jeelani and others*** *reported in* ***(2017) 2 SCC 779.*** *After taking into consideration the complaint and other materials, if any, the Police Inspector is of the view that the same discloses commission of a cognizable offence, then appropriate directions be issued for registration of the FIR forthwith at the concerned Police Station. However, the Police Inspector, after going through the materials, is of the view that no case is made out for registration of the FIR, then in such circumstances, he shall inform the petitioner in writing about the same by assigning reasons in brief, preferably within a period of four weeks from today.*

4. It is needless to say that this Court has not opined about commission of alleged offences and, therefore, it would be open for the suspects or those persons, who may be made an accused in the FIR, to file an application u/s.482 or Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 or to file appropriate proceedings before appropriate Court including an application u/s.528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and/ or any petition under Article 226 of the Constitution of India. Rule is made absolute to the aforesaid extent.

5. With the above observations and directions, this petition is disposed of. I clarify that I have otherwise not gone into the merits of the matter.

6. For any reason, if the police authorities refuse to register the FIR, it shall be open for the petitioner to avail of the remedy under Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

Direct service is permitted."

Pursuant to which, the petitioners complainant went to Pardi Police Station, Dist: Valsad, but by Samajyadi at page 69 of the compilation, the PI, Pardi Police Station, has closed the proceedings on the ground that compromise took place between the parties. The order passed by the Coordinate Bench of this Court is clear that if the police authorities refuse to register FIR, it would be open for the petitioners to avail appropriate remedy available u/s 223 of the BNSS. Samajyadi at page 69 of the compilation can be considered as refusal to register FIR.

In view of above, present petition stands disposed of with the clarification that Samajyadi at page 69 of the compilation would not come in the way of the petitioners to avail remedy u/s 223 of the BNSS, as permitted by the Coordinate Bench of this Court in the aforesaid order.

(J. C. DOSHI,J)

SHEKHAR P. BARVE

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: SHEKHAR PRAFULBHAI BARVE(HC00200), Principal Pvt. Secretary, at High Court of Gujarat on 29/10/2026 15:05:59