

(2026) 08 GUJ CK 1836

In the Gujarat High Court

Case No : R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE FIR/
ORDER) NO. 8973 of 2020

Gulnavaz Sarfraz Ahemad Bhisti

APPELLANT

Vs

State Of Gujarat & Anr.

RESPONDENT

Date of Decision : 03-08-2026

Acts Referred:

Criminal Procedure Code, 1973 — Section 482
Indian Penal Code — Sections 376, 323, 504, 506(2), 384 and 385
I.T.Act — Section 66(b)
Gujarat Police Act — Section 135
Constitution of India — Article 226

Citation : (2026) 08 GUJ CK 1836

Hon'ble Judges : P. M. Raval, J

Bench : Single Bench

Advocate : MR VISHVAJITSINH D CHAUHAN, MR.KISHAN PRAJAPATI, MR
KRUNAL G PATEL, MR KM ANTANI

Final Decision : Allowed

Judgement

1. The petitioner before this Court invoked Section 482 of the Criminal Procedure Code, 1973 to quash and set aside C.R. No.I-6/2019 lodged before Kheroj Police Station, Sabarkantha, dated 6.3.2019 for offences punishable under Sections 376, 323, 504, 506(2) of the Indian Penal Code and Section 66(b) of the I.T.Act read with Section 135 of the Gujarat Police Act.

2. The facts as narrated in the FIR in nutshell are to the effect that the complainant is residing at the address mentioned in the complaint with her family and she is running grocery shop at her house and she is having three children. It is further stated in the complaint that before eight months of the complaint she was present at her house at about 7 O' clock of the evening one Gulubhai Bhisti who is residence of Kotda Chhavani came to the house of the complainant and demanded Vimal and the complainant has given the same to him and as complainant was alone at home by taking benefit of it that Gulubhai

have taken complainant forcefully in her house and committed rape on her and also prepared the video and by showing video to her, he has threatened her that if she will inform anyone he will circulate the video on social media and also kill her family and thereafter he used to commit offence by threatening her. It is further alleged that on 13.02.2019 the complainant was present at her home and her husband went out for some work and at that time complainant was alone at her home at about 8 O' clock of night that Gulubhai Bhisti came to the house of the complainant in his car and took the complainant into her house and committed rape on her forcefully and threatened her by knife and also clicked the nude photograph of complainant and at that time husband of the complainant came to house and, therefore, Gulubhai ran away from the house by leaving his car. Thereafter, complainant has informed her husband and when Gulubhai came to the house of the complainant to take back his car with his friends, at that time there was quarrel with husband of complainant and Gulubhai has beaten the husband of complainant and also threatened him not to file complaint and even thereafter husband of the complainant has informed to his father Sarfrazbhai but he has also threatened the husband of the complainant and, accordingly, FIR came to be lodged. Hence, the present petition is filed with a prayer to quash the aforesaid FIR.

3. Learned advocate, Mr.Zubin Bharda for Mr.Kishan Prajapati would submit that the petitioner has not committed any offence but, in fact, prior to the registration of the impugned FIR, the petitioner herein has lodged an FIR against the present informant and her husband for extortion and same came to be registered on 18.2.2019 as C.R.No.29 of 2019 before Kotda Police Station, Udaipur, for the offences punishable under Sections 384 and 385 of the Indian Penal Code, pursuant to which the informant and her husband came to be arrested by the police and subsequently enlarged on bail and the charge sheet is also filed. That the impugned FIR is nothing but a counter-blast of the FIR lodged by the present petitioner.

3.1 Learned advocate Mr.Bharda further submitted that the present petitioner is falsely implicated in the alleged offence to save the skin from the FIR lodged by the present petitioner, alleging that he has committed rape on the date of the alleged incident, but, in fact the complainant had called the petitioner from Udaipur by making several calls, and when the petitioner reached her house at Vichhiya and when the alleged incident on 13.2.2019 took place, her husband came and abused the petitioner and, therefore, the petitioner left the place, and on the next day i.e. on 14.2.2019, the informant and her husband, namely, Dilawarkhan came to the house of the petitioner, showed the video on the mobile phone and asked to give Rs.4 Lakhs, failing which an FIR would be lodged. Thus, the actual incident is otherwise than what has been narrated in the impugned FIR. The informant and her husband wanted to blackmail the petitioner and extract money for which an FIR is lodged. The present FIR is lodged by the informant i.e. respondent No. 2 herein as a counter-blast and it is nothing but abuse of process of law with a view to harass and pressurize the present

petitioner with *mala fide* intention.

3.2 Learned advocate Mr.Bharda further submitted that the FIR lodged by the present petitioner is already investigated by Kotda Police Station, charge sheet is filed, and there is enough material to point out that it is the present informant, who is trying to exploit the situation, and that their *modus operandi* is also narrated in the investigation carried out by Kotda Police Station. Thus, it is argued that no offences, as alleged under the FIR lodged against the present petitioner, are made out. It is further submitted that the petitioner is doing business at Kotda, Udaipur, and, therefore, the complainant often used to visit his place for purchase of goods, and thus, they came into contact, and on 13.2.2019, the complainant had called the petitioner at Vichhiya, and when the petitioner reached Vichhiya, the husband of the complainant came and threatened the petitioner to give money, else to implicate him in a serious offence, and since the petitioner did not succumb to the illegal demands of extortion of money by the informant and her husband, the present FIR came to be lodged. It is further argued that, as per the FIR, since last eight months the petitioner used to come and commit the offence, which is highly improbable and unbelievable, more particularly, when column no.8 of the FIR lodged by the informant itself states clearly that the reason for delay in reporting the incident by the informant is that they tried to settle the dispute *inter se*, however, having failed, the informant has lodged the present FIR. Thus, it is argued to quash the present FIR by allowing present petition.

4. On the other hand, learned advocate Mr.Kunal G. Patel for the original informant and learned APP for the respondent-State would submit that serious allegations are made against the present petitioner, which is evident from the FIR itself, and that after the incident on 13.2.2019 immediately on 15.2.2019, a written application was given to the concerned police station, however, since no action was taken, the FIR came to be lodged on 6.3.2019, and thus there is no delay in filing the complaint. It is further submitted that the petitioner had also threatened the informant with knife, which is also clearly stated in the FIR and it is clearly stated as to the manner in which the incident had taken place and the manner in which the petitioner has committed crime taking disadvantage of the business relation between the them for the last seven to eight months before the alleged incident. It is submitted that considering the allegations made in the FIR, this Court may not exercise its discretion in favour of the present petitioner.

5. Heard learned advocates appearing for the parties and perused the material on record. Following undisputed aspects emerge from record:-

(i) Parties are known to each other and there is business relationship between the parties.

(ii) The alleged incident took place on 13.2.2019 for which an application was given on 15.2.2019 before the Kheroj Police Station.

(iii) FIR came to be lodged on 6.3.2019.

(iv) The reason for delay in reporting the complaint is that, having failed to arrive at a compromise, the FIR is lodged belatedly.

(v) The present applicant lodged an FIR before the Kotda Police Station on 18.2.2019 being C.R.No.29 of 2019 for offences under Sections 384 and 385 of the IPC.

(vi) The charge sheet papers appended with the petition memo reveal that it is the other way round. Jio SIM No.7990128434 standing in the name of the present informant has been given to Gul Nawaz, i.e. the present petitioner, and on 13.2.2019, the informant had called for at least 7 to 8 times on this number from her mobile No.8290109469.

(vii) As per charge-sheet, the informant and her husband came to the shop of the present petitioner in Kotda on 14.2.2019 and asked for Rs.4 Lakhs by showing the video of informant and present petitioner.

(viii) There are other victims also, who have been duped by similar *modus operandi*.

6. The aforesaid undisputed facts are based on the averments made in the complaint as well as the charge sheet filed after investigation into the FIR filed by the present petitioner against the present informant and her husband, and the papers appended thereto, which are not disputed by the original complainant. It seems to be a consensual relationship between the informant and the present petitioner. Both the parties seem to have been married. The FIR lodged by the present informant is nothing but a counter-blast. As held by the Honorable Supreme Court in its decision in the case of **Haji Iqbal @ Bala through S.P.O.A. v. State of U.P. and others**, rendered in Criminal Appeal No.2345 of 2023 on 8.8.2023, when there is a specific case of the petitioner that the FIR is lodged with *mala fide* intention, the Court is not powerless to read between the lines and look into the uncontroverted documents placed on record. In this regard, relevant observations made in the aforesaid decision reads as under:-

"15. At this stage, we would like to observe something important. 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. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.”

7. In view of the aforesaid facts and circumstances of the case and the principle laid down in the aforesaid decision as also considering the principles laid down in the case of **State of Haryana v. Bhajan Lal, AIR 1992 SC 604**, it clearly seems to be an abuse of process of law, more particularly when the informant and her husband failed to extort money from the present petitioner by showing the video recorded when the present petitioner visited the residence of the informant on 13.2.2019, they have filed the impugned FIR. Similar *modus operandi* is also adopted with other victims. Under the circumstances, the present petition is allowed and the impugned complaint being C.R.No.I-6/2019 registered with Kheroj Police Station, Sabarkantha, is quashed with all consequential proceedings pursuant thereto, so far as present petitioner is concerned. Rule is made absolute accordingly. Direct service is permitted.

8. It is made clear that the findings in the present petition shall not come in the way of the trial pending before the Court at Rajasthan.