

(2025) 11 GUJ CK 1869

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Consent Quashing) No. 23060 Of 2025

Vijaybhai Babubhai Pagi

APPELLANT

Vs

State Of Gujarat & Anr

RESPONDENT

Date of Decision : 18-11-2025

Acts Referred:

Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 528
Indian Penal Code, 1860 — Section 114, 363, 366, 376(2)(n)
Protection Of Children From Sexual Offences Act, 2012 — Section 3(a), 4, 5(L), 6, 16, 17

Citation : (2025) 11 GUJ CK 1869

Hon'ble Judges : Vimal K. Vyas, J

Bench : Single Bench

Advocate : Yash K Dave, Devanshi P Malkan, Krina Calla

Final Decision : Allowed

Judgement

Vimal K. Vyas, J

1. By way of preferring the present application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant-accused seeks to invoke the inherent powers of this Court, praying to quash and set-aside the First Information Report No. 11187005240379 of 2024 registered with the Kothamba Police Station, Mahisagar, for the offences punishable under Sections 363 366, 376(2) (n) and 114 of Indian Penal Code, and under Sections 3(a), 4,5(L),6,16 and 17 of the POCSO Act, as well as all other consequential proceedings arising pursuant thereto.

2. Today, when the matter is called out, the complainant is personally present before this Court. He has produced his identity proof as well as the affidavit, which are ordered to be taken on record. In the said affidavit, the complainant has categorically stated that due to the intervention of the family members, relatives and village people, the dispute between them and the applicant has

been amicably resolved since they belong to the same community and are residing in the same village. The complainant has further stated that he has no objection if the application is allowed and the impugned FIR is quashed and set aside.

3. Considering the issue involved in the present application as well as considering the fact that the dispute has been amicably resolved between the parties, with the consent of the learned advocates appearing for the respective parties, the present application is taken up for final disposal.

4. RULE returnable forthwith. Learned APP Ms. Krina Calla waives service of notice of rule for and on behalf of the respondent no.1 – State and learned advocate Ms. Devanshi Malkan waives service of notice of rule for and on behalf of the respondent no.2 – complainant.

5. Learned advocate appearing for the applicant-accused has taken this Court through the factual matrix arising out of the present application and has submitted that the parties have amicably resolved the dispute and they do not want to proceed further with the matter as the same would put them to unnecessary harassment/hardships. It is submitted that the respondent-original complainant has also filed an affidavit in this regard and has declared that the dispute between them and the applicant-accused has been amicably resolved due to the intervention of the family members relatives and respected persons of society of the village.

6. Learned advocate has submitted that since the dispute has been amicably resolved between the parties, the trial would be a futile exercise and continuing further with the proceedings would amount to abuse of process of law. He has therefore, submitted that this Court may allow the present application by quashing and setting aside the impugned FIR in exercise of the powers conferred under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

7. Learned APP appearing for the respondent-State has vehemently opposed the present application and has submitted that considering the seriousness and gravity of the offence, the complaint in question may not be quashed and the present application may be rejected.

8. The complainant, who is present in the Court, has been duly identified by learned advocate representing him and he has categorically stated before this Court that he has no objection, if the application is allowed and the FIR is quashed and set-aside. Thus, it appears from the aforesaid that continuing further with the impugned FIR would be nothing but a futile exercise and would amount to abuse of process of law.

9. The relevant paragraph of the affidavit reads thus :

" I submit that due to misunderstanding, misconception and out of anger the impugned FIR was lodged against the petitioner. That the petitioner and myself belong to same community and are residing in same village therefore, due to the intervention of family members, village people and mutual relatives, I have

amicably settled the dispute with the petitioner and as on today there is nothing left to proceed further against him. To proceed further against the petitioner would be nothing but mental agony and pain to us. The Prosecutrix and the petitioner Vijaybhai Pagi has married following social rituals (Ful Haar) and My daughter was aware about that the petitioner was married but his wife has died and She was also aware that he had two children. Therefore, the FIR and proceedings be quashed to which I have no objections.”

9.1 The offence alleged is under Sections under Sections 363 366, 376(2) (n) of Indian Penal Code, and under Sections 3(a), 4,5(L),6,16 and 17 of the POCSO Act. As per the case of the prosecution, at the time of the incident the victim was aged about 17 years and 01 month whereas the accused was aged about 23 years. To ascertain the age of the victim, the prosecution has relied upon the school leaving certificate of the victim and no ossification test has been carried out.

9.2 The complainant, who is personally present in the Court, has specifically stated that since the applicant also belongs to the same community and is residing in the same village, with the intervention of the family members, relatives and respected persons of the village, the dispute between him and the applicant has been amicably resolved.

10. Having heard learned advocates appearing for the respective parties as well as considering the facts and circumstances arising out of the present application and taking into consideration the decisions rendered in the cases of Gian Singh vs. State of Punjab & Another, reported in (2012) 10 SCC 303, Madan Mohan Abbot vs. State of Punjab, reported in (2008) 4 SCC 582, Nikhil Merchant vs. Central Bureau of Investigation & Another, reported in (2009) 1 GLH 31, Manoj Sharma vs. State & Others, reported in (2009) 1 GLH 190, and Narinder Singh & Others vs. State of Punjab & Another, reported in (2014) 2 Crime 67 (SC) as well as State of Haryana vs. Bhajanlal, reported in AIR 1992 SC 604, it appears that to continue further with the criminal proceedings in relation to the impugned FIR against the applicant-accused would be a futile exercise and the same would amount to abuse of process of law. Hence, to secure the ends of justice, the impugned FIR and all other consequential proceedings arising pursuant thereto are required to be quashed and set-aside in exercise of the powers conferred under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

11. In the result, the application is allowed. The proceedings of the First Information Report No. 11187005240379 of 2024 registered with the Kothamba Police Station, Mahisagar as well as all other consequential proceedings arising pursuant thereto are hereby ordered to be quashed and set-aside qua the applicant.

12. Rule is made absolute. Direct service is permitted.