IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC. APPLICATION (FOR QUASHING & SET ASIDE FIR/ORDER) NO. 10345 of 2017
With
R/SPECIAL CRIMINAL APPLICATION NO. 9928 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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SANJAY BALWANT NIKAM
Versus
STATE OF GUJARAT & ANR.

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Appearance:
MR ASHISH M DAGLI(2203) for the Applicant(s) No. 1
MR DAXESH T DAVE(248) for the Respondent(s) No. 2
MR YUVRAJ BRAHMBHATT, APP for the Respondent(s) No. 1

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

Date : 14/09/2026

ORAL JUDGMENT

1. As both the matters are relating to the same FIR, the same are heard and being decided by this common judgment.

2. Criminal Misc. Application No. 10345 of 2017 is filed by the applicant invoking Section 482 of the Criminal Procedure Code, 1973 (the Code) seeking to quash and set aside the FIR being C.R. No. I-110 of 2008, registered with Sayajiganj Police Station, District: Vadodara City for the offence punishable under Sections 406, 420, 467, 468, and 471 of the Indian Penal Code, 1860 (IPC) with consequential proceedings. Whereas, Special Criminal Application No. 9928 of 2016 is filed under Article 226 of the Constitution of India r/w. Section 482 of the Code praying to quash and set aside the Charge-sheet being Criminal Case No. 38896 of 2008, alternatively praying for to quash and set aside the order dated 15.07.2016 passed by the learned 3rd Additional Civil Judge, Vadodara below Exh. 9 in Criminal Case No. 38896 of 2008, whereby, the application for discharge, filed by the petitioner, came to be rejected and the order dated 09.09.2016 passed by the learned 11th (*Ad-hoc*) Additional Sessions Judge, Vadodara confirming the aforesaid order dated 15.07.2016 rejecting discharge application.

3. Filtered facts of the case are that accused namely Mukesh Mahendrabhai Darji allegedly, by giving his identity as younger brother of one Paresh Mahendrabhai Darji in the Branch No. 3, Sayajiganj Branch of the Life Insurance Corporation of India (LIC), and by producing School Leaving Certificate of someone else as well as other documents, got issued a policy with sum insured of Rs.5 lakh and thereafter, by producing a fake Death Certificate

tried to encash the policy benefits and thereby, committed the crime in question for which, FIR came to be registered against the accused.

4. Heard, learned advocate for the respective parties.

4.1 So far as Criminal Misc. Application No. 10345 of 2017 is concerned, it is submitted that:

4.1.1 The applicant was a Development Officer having a long tenure. It is submitted that the policy in question was availed by the holder by submitting necessary documents *viz.* School Leaving Certificate and necessary premium was also paid.

4.1.2 It is further submitted that papers were collected by the authorized Agent of LIC and thus, the insurance policy was issued. It is submitted that the applicant was not aware about the document being false/forged. The learned advocate submitted that many persons work under the applicant as LIC Agent and the Agents submit the documents after verification and relying on the documents that are supplied by the Agent for issuance of the LIC Policy, he proceeds further. Thus, it is submitted that the applicant cannot be held responsible for the alleged act having no intention whatsoever and having acted in good faith.

4.1.3 The learned advocate for the applicant would submit that even the investigation in the matter is over and Charge-sheet is also filed and from the papers of the Charge-sheet nothing adverse is revealed against the present applicant.

4.1.4 It is further submitted that FIR reveals neither offence under Section 120B of the IPC, nor Sections 34 or 114 of the IPC are added and accordingly, the applicant cannot be held jointly liable for the offence, if any, committed by other and so far, as other offences are concerned, no ingredients are satisfied.

4.1.5 Making above submissions, it is urged to allow this application.

5. So far as Special Criminal Application No. 9928 of 2016 is concerned, it is submitted that:

5.1.1 The petitioner is merely an Agent and has no role to play in the crime in question. It is submitted that Charge-sheet in the matter is already filed and if the Charge-sheet papers are taken in entirety, then too, there is nothing to show *prima facie* case made out against the present petitioner.

5.1.2 It is submitted that in fact the petitioner is a victim of the crime inasmuch as main accused Mukesh Darji with whom the petitioner had acquaintance, since was interested in availing an LIC policy, the petitioner, out of acquaintance and trust, supplied the duly stamped and signed policy form bearing Agency Code, however, thereafter, said Mukesh Darji did not turn up, and procured policy and paid premium directly, who submitted a false claim alleging death of his brother Yagnesh Darji.

5.1.3 It is further submitted that on having found the claim ingenuine, a detailed investigation was carried out by the LIC a detailed Report was also submitted from which, it is revealed that said Mukesh Darji has committed wrong.

5.1.4 It is further submitted that had there been any doubt with regard to the involvement of the present petitioner in the so-called act, the LIC would have suspended / cancelled the Agency of the petitioner and taken disciplinary actions against the petitioner. However, the Vigilance Department of LIC did not find any material, worth the name, against the present petitioner.

5.1.5 It is vehemently submitted that in the case on hand, the main accused namely Mukesh Darji has filed an Affidavit before the concerned authority, which is on record, stating that all act of lodging false claim by creating forged document was done by him. Thus, while the learned trial Judge has manifestly erred in rejecting the Discharge Application, the learned Revisional Court has also erred in confirming the said rejection.

5.1.6 Thus, making above submissions, it is urged that this petition may be allowed.

6. *Conversely*, the learned advocate for the respondent No. 2 as well as the learned Additional Public Prosecutor for the respondent – State, while opposing the present application/petition, have submitted that as per the settled law, inherent powers under Section 482 of the Code /writ jurisdiction under Article 226 of the Constitution of India should be used sparingly and with a view to curb the abuse of process of law. It is submitted that in the case on hand, a *prima facie* case is made out against the applicant/petitioner and hence, they requested that it is ultimately a matter of trial after which, the truth could be churned out and hence, it is requested not to entertain these applications.

6.1 It is further submitted that in the case on hand though there is an affidavit of the main accused namely Mukesh Darji is on record, however, what is material is, the endorsement made by the present petitioner (in Special Criminal Application No. 9928 of 2016). As observed by the learned Revisional Court, the petitioner has made categorical endorsement that he had fully explained the questions in the proposal form to the proposer and recorded the answers given by him. Further, if the statements of Talati-cum-Mantri and the Sarpanch of Khanpur Gram Panchayat are referred, it is clear that no person namely Yagnesh Mahendrabhai Darji was residing in the village. Thus, it is submitted that the policy was taken in the name of a non-existent person qua whom, such endorsement is made by the petitioner of Special Criminal Application No. 9928 of 2016.

6.2 Making further submissions it is argued that, the applicant in Criminal Misc. Application No. 10345 of 2017, who was the Development Officer, also made an endorsement to the effect that "*I am Satisfied with the identity of the party and on the basis of my independent inquiries, I hereby declare that the forgoing statements are true and correct to the best of my knowledge and belief*". Whereas, petitioner in Special Criminal Application No. 9928 of 2016 who is an agent makes endorsement in the Proposal Form that: "*I hereby declare that I have fully explained the above questions to the proposer and I have truth fully recorded the answers given by the proposer*". Thus, the applicants were conscious enough while making such endorsements.

6.3 It is submitted that based on forged documents, policy was availed by introducing fake details of a non-existent person and present applicant/petitioner made their respective endorsement endorsing the same a true and thus, only because Sections 34, 120B or 114 of the IPC are not invoked, complicity of the present applicant/petitioner in the alleged crime cannot be ruled out, more particularly, when Charge can be altered at any stage.

6.4 Thus, making above submissions, it is urged that since *prima* *facie* case is made out against the present applicant/petitioner, interference of this Court is not required in the matter more particularly when Charge-sheet in the case is already filed and there is ample material to show involvement of present applicant/petitioner. Eventually, it is urged to reject these applications.

7. Heard, the learned advocates for the respective parties and perused the material on record, including the order passed by the learned subordinate Courts rejecting the Discharge Application.

7.1 Prior to assessing the factual matrix on the touchstone of criminal jurisprudence, it is apposite to reinforce the settled legal position governing the scope, ambit, and limits of the inherent jurisdiction vested under Section 482 of the Code. The jurisprudential parameters regulating the exercise of this extraordinary power have been authoritatively catalogued by Hon'ble Supreme Court in a long line of precedents, chief among them being the authoritative in the case of ***State of Haryana v. Bhajan Lal [AIR 1992 SC 604]***. Therein, Hon'ble Supreme Court crystallized seven distinct, illustrative categories of cases where judicial intervention under Section 482 of the Code or Article 226 of the Constitution is necessitated to secure the ends of justice and clip any abuse of the process of Court. The relevant portion of Paragraph 102 of the said judgment is extracted below:

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint

are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

7.2 Evaluating the present applications on the anvil of the principles enunciated in ***Bhajan Lal (supra)***, this Court has to determine whether the allegations in the FIR, even when accepted at face value, satisfy the essential statutory ingredients of Sections 406, 420, 465, 467, 468, and 471 of the IPC. This Court must ensure that criminal machinery is not permitted to degenerate into an engine of harassment where liability under criminal law is completely absent.

7.3 The offences alleged under Sections 406, 420, 467, 468, and 471 IPC center on deception, forgery of valuable securities, and using forged documents as genuine.

8. Having regard to the arguments canvassed by the learned advocates for the respective parties and having perused the material on record, including the Charge-sheet papers and the concurrent findings and orders passed by the subordinate Courts rejecting the discharge application, this Court is called upon to decide whether the proceedings against the present applicants deserve to be quashed. It is a well-settled principle of criminal jurisprudence that inherent powers under Section 482 of the Code of Criminal Procedure, 1973, or the extraordinary writ jurisdiction under Article 226 of the Constitution of India, ought to be exercised sparingly, cautiously, and only with a view to curb the abuse of the process of any court or to secure the ends of justice. When a petition is preferred against concurrent orders of subordinate Courts, specifically where a trial Court has refused discharge and a revisional Court has affirmed that view, the scope of interference by the High Court becomes exceedingly narrow. At this preliminary stage, the Court cannot embark upon a detailed mini-trial or weigh the probative value of the evidence, but is strictly required to examine whether the lower Courts committed any manifest perversity, illegality, or jurisdictional error in holding that a *prima facie* case is made out.

8.1 The foundational facts reveal that the main accused, Mukesh Mahendrabhai Darji, allegedly procured an LIC Policy for a sum insured of Rs. 5 lakh by giving his identity as younger brother of one Paresh Mahendrabhai Darji, producing a School Leaving

Certificate of someone else, and subsequently trying to encash the policy benefits by producing a fake Death Certificate. During the course of the investigation, statements recorded from the Talati-cum-Mantri and the Sarpanch of Khanpur Gram Panchayat clearly established that no person by the name 'Yagnesh Mahendrabhai Darji' was ever residing in the village. Therefore, the Policy was taken in the name of a non-existent, fictitious person.

9. Now, coming first to **Special Criminal Application No. 9928 of 2016**, filed by the LIC Agent:

9.1 The petitioner-agent contends that he is merely a victim who had an acquaintance with the main accused, arguing that out of trust, he supplied a duly stamped and signed policy form bearing his Agency Code to the main accused, who then independently procured the policy and submitted the false claim.

9.2 The petitioner also heavily relies on the fact that the main accused filed an affidavit taking sole responsibility for lodging the false claim, and that the Vigilance Department of LIC did not find any material against the petitioner.

9.3 However, this Court finds the petitioner's own admission of handing over a pre-signed, blank Form highly detrimental at this stage. The petitioner made a categorical written endorsement on the Proposal Form stating: "*I hereby declare that I have fully explained* *the above questions to the proposer and I have truth fully recorded the answers given by the proposer".*

9.4 Certifying a face-to-face interaction and recording answers from a proposer who did not even exist is a grave matter. A departmental vigilance clearance or a co-accused's exculpatory affidavit cannot automatically override documentary evidence (the false endorsement) in criminal proceedings to warrant discharge. The veracity of the agent's defense—whether he was innocently duped or actively colluded—is entirely a disputed question of fact that must be tested during trial. Furthermore, the Revisional Court committed no legal error in confirming the trial Court's refusal to discharge him, as the documentary material raises a strong suspicion of complicity.

10. Turning next to **Criminal Misc. Application No. 10345 of 2017**, filed by the Development Officer:

10.1 The applicant argues that as a Development Officer with a long tenure, he merely proceeded on the verified documents supplied by the authorized Agent in good faith. He contends that he had no intention or knowledge of the forgery, and because Sections 120B, 34, or 114 of the IPC are not invoked in the FIR, he cannot be held jointly liable for offenses committed by others.

10.2 While this argument appears attractive at the first blush, it falls flat upon examining the documentary record. The Development Officer also made a specific, personal endorsement on the proposal form stating: "*I am Satisfied with the identity of the party and on the basis of my independent inquiries, I hereby declare that the foregoing statements are true and correct to the best of my knowledge and belief*".

10.3 By explicitly declaring that he conducted "independent inquiries" and was satisfied with the identity of a party who, as per the village authorities, never existed, the Development Officer has directly implicated himself in the chain of documentation.

10.4 Furthermore, this Court finds merit in the submission made by the learned Additional Public Prosecutor. The mere fact that Sections 34, 120B, or 114 of the IPC were not explicitly invoked in the Charge-sheet does not rule out the complicity of the applicant. Under the criminal jurisprudence governing criminal trials, charges can be altered or added by the trial Court at any stage (under Section 216 of the Code) if the underlying material demonstrates a common intention or meeting of minds. Consequently, the omission of the strategic sections in the FIR or Charge-sheet raised by the accused, but to no avail.

10.5 Most importantly, the learned Revisional Court thoroughly evaluated these concurrent aspects and rightly upheld the trial Court's rejection of discharge. In the absence of any patent perversity or grave miscarriage of justice in the concurrent findings of the Courts below, this Court finds no legal justification to interfere under Section 482 of the Code or Article 226 of the Constitution.

10.6 Where an insurance policy is obtained in the name of a non-existent person, the affirmative endorsements made by internal institutional officials (accused herein) certifying personal verification constitute vital evidentiary links. Whether these representations were the result of innocent administrative negligence (lacking *mens rea*) or constituted active facilitation or collusion in the fraud, is a question of fact that can only be adjudicated during trial through cross-examination. Furthermore, the argument advanced by the learned advocates for the applicant/petitioner that the institution (LIC) has not named them either in its internal investigation or in the FIR, cannot serve as a ground to discharge or quash the proceedings at this stage when sufficient *prima facie* material is otherwise available on record.

10.7 Further, investigation in the offence is completed and the Charge-sheet is already filed. From the charge-sheet papers, a *prima facie* case appears to have been made out against the applicant/petitioner. As per the settled law laid down by the Apex Court in ***Central Bureau of Investigation v. Aryan Singh etc. reported in 2023 (0) AIJEL-SC 70780***, at the stage of discharge and/or quashing of criminal proceedings while exercising powers under Section 482 of the Code, the Court is not required to conduct a mini-trial, as charges are required to be proved during trial on the basis of evidence led by the prosecution or investigating agency.

10.8 In this context, it is also apposite to refer to the decision in ***Kanchan Kumar v. State of Bihar reported in (2022) 9 SCC 577***, wherein the Apex Court, while considering the judgment in ***Dipakbhai Jagdishchandra Patel v. State of Gujarat***, summarized the principles governing discharge under Section 227 of the Code. The Apex Court reiterated that at the stage of framing charges, the court must sift the material produced and relied upon by the prosecution to see if a case is made out for the accused to stand trial. A strong suspicion suffices, provided it is founded on material that can be translated into evidence at the trial, rather than pure subjective satisfaction or moral notions. In the present case, the specific written endorsements made by both applicants validating a non-existent person furnish the requisite material to ground such strong suspicion.

10.9 Therefore, having assessed the factual matrix on the touchstone of the settled legal position governing the scope, ambit, and limits of inherent under section 482 of the CRPC and writ powers under 226/227 of the Constitution of India against concurrent orders of subordinate Courts, this Court concludes that there is ample material in the Charge-sheet to show the involvement of both the applicant/petitioner. Both accused made specific written endorsements validating a non-existent person, and the concurrent decisions of the Courts below refusing discharge suffer from no legal infirmity. Consequently, these applications deserve to be rejected.

11. In the result, both **Criminal Misc. Application no. 10345 of 2017** and **special criminal application no. 9928 of 2016** fail and are hereby **REJECTED**. The order dated 15.07.2016 passed by the learned 3rd Additional Civil Judge, Vadodara, below Exh. 9, as well as the confirming revisional order dated 09.09.2016 passed by the learned 11th (Ad-hoc) Additional Sessions Judge, Vadodara, are hereby **UPHELD**. Rule is discharged. Interim relief, if any, shall stand vacated forthwith.

11.1 The trial Court shall proceed with Criminal Case No. 38896 of 2008 in accordance with the law without being influenced by any observations made in this order. Notice is discharged in both matters.

[P. M. Raval, J.]

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