



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 15737 of 2026**

**FOR APPROVAL AND SIGNATURE:
HONOURABLE MRS. JUSTICE M. K. THAKKER**

Approved for Reporting	Yes	No
	YES	

AMRATBHAI GOVABHAI DESAI
Versus
STATE OF GUJARAT & ANR.

Appearance:

MR ASHISH M DAGLI(2203) for the Applicant(s) No. 1
MR KAUSHAL P MODI(12876) for the Respondent(s) No. 1,2
MS MONALI BHATT, ADDL.PUBLIC PROSECUTOR for the Respondent(s)
No. 1

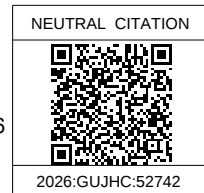
CORAM: HONOURABLE MRS. JUSTICE M. K. THAKKER

Date : 17/08/2026

JUDGMENT

Rule returnable forthwith. Learned APP Ms.Bhatt waives service of notice of Rule for and on behalf of respondent No.1-State. Learned advocate Mr.Modi waives service of notice of Rule for and on behalf of respondent No.2-original complainant.

1. By way of filing the present application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicants-accused have prayed to quash and set aside the FIR No.11217020220277 of 2022 registered with Patan B Division Police Station for the offence punishable under sections 306, 506(1), 507 and 114 of the Indian Penal Code, as well as all consequential proceedings arising therefrom qua the applicants



herein.

2. At the outset, it is submitted by the learned advocates for the respective parties that the dispute is resolved between the parties and the complainant and wife of the deceased have both filed affidavits giving consent for quashment of the FIR. The affidavits are reproduced hereinbelow:

Affidavit filed by the respondent No.2 original complainant read thus:

“I XXX XXX XXX, do hereby solemnly affirm and state on oath as under:

1. I say that I am the Respondent No. 2 herein and am the original complainant / first informant of the First Information Report being C.R. No. 11217020220277 of 2022 dated 07.04.2022 registered at B-Division Police Patan, for the offences Station, Patan City, District punishable under Sections 306, 506(1), 507 and 114 of the Indian Penal Code and under Sections 40 and 42 of the Gujarat Money-Lenders Act, 2011. I am the son of the deceased Late Kanjibhai Rabari. I am well acquainted with the facts and circumstances of the case and am competent to swear this affidavit.

2.I say that pursuant to the said FIR, investigation was concluded and charge-sheet came to be filed, whereafter the case came to be registered as Sessions Case No. 67 of 2022 before the learned 4th Additional Sessions Judge, Patan. The discharge application preferred by the present petitioner below Exhibit 6 came to be rejected by order dated 03.09.2025 and charge came to be framed by order dated 01.10.2025 (Exhibit 9). The



present petitioner (original accused No. 1) has preferred the present Criminal Misc. Application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, inter alia praying to quash and set aside the said impugned orders and the consequential proceedings.

3. I say that the co-accused (original accused Nos. 2 and 3) had preferred R/Criminal Misc. Application No. 24488 of 2025 with R/Criminal Misc. Application No. 24489 of 2025 before this Hon'ble Court, wherein I had filed my consent affidavit dated 23.03.2026 stating that the matter stood settled between the parties and that I had no objection if the impugned proceedings were quashed.

The learned coordinate Bench of this Hon'ble Court (Coram: Hon'ble Mr. Justice Vimal K. Vyas), by judgment and order dated 05.05.2026 (Annexure F to the present petition), was pleased to allow the said petitions and to quash and set aside the order dated 03.09.2025 passed below Exhibit 6 as well as the order dated 01.10.2025 passed below the Charge (Exhibit 9) in Sessions Case No. 67 of 2022 qua the said co-accused, together with all consequential proceedings arising pursuant thereto on merits as well as on the basis of the consent of the undersigned.

4.. I say that the genesis of the dispute between the parties is essentially a monetary transaction, in that my late father had borrowed a sum of Rs. 1,00,000/- (Rupees One Lakh only) from the present petitioner on interest basis. I say that towards the said amount borrowed by my late father, I have paid Rs. 1,00,000/- (Rupees One Lakh only) to the present petitioner, and the dues between the parties stand fully and finally settled. Nothing remains due and outstanding between me and the present petitioner, and I have no claim, dispute or grievance of any nature whatsoever against the



present petitioner.

5. I say that since the dispute between the parties has been amicably resolved, I do not wish to pursue or prosecute the criminal proceedings against the present petitioner any further. I say that the present petitioner is a senior citizen aged about 70 years, and continuation of the criminal proceedings against him would serve no useful purpose and would merely prolong the agony of both the parties.

6.I, therefore, hereby give my free and unequivocal consent for quashing and setting aside the First Information Report being C.R. No. 11217020220277 of 2022 registered at B-Division Police Station, Patan City, and all consequential proceedings arising therefrom including Sessions Case No. 67 of 2022 pending before the learned 4th Additional Sessions Judge, Patan - qua the present petitioner Amratbhai Govabhai Desai. I have no objection if the present Criminal Misc. Application is allowed in terms of the prayers made therein.

7. I say that this affidavit is sworn by me voluntarily, out of my own free will and accord and in a sound state of mind; without any coercion, duress, pressure, inducement, misrepresentation or undue influence from the present petitioner or from any other quarter whomsoever. I have read and understood the contents of this affidavit (which have also been read over and explained to me in Gujarati), and I fully understand the nature and consequences of the consent hereby given.

8. I say that the consent hereinabove is given by me in the same terms and in continuation of the consent already accorded by me in R/Criminal Misc. Application No. 24488 of 2025 with R/Criminal Misc. Application No. 24489 of 2025, which came to be accepted by the learned coordinate Bench of this Hon'ble Court by the order dated 05.05.2026 (Annexure - F).



9. I undertake that I shall not raise any dispute, claim or grievance in respect of the subject-matter of the said FIR at any time hereafter, and I shall remain present before this Hon'ble Court as and when required and shall abide by any order or direction that this Hon'ble Court may deem fit to pass.

10. Whatever is stated hereinabove is true and correct to the best of my knowledge, information and belief, and I believe the same to be true. No part of it is false and nothing material has been concealed therefrom.

VERIFICATION

I, the deponent above-named, do hereby verify and solemnly affirm that the contents of paragraphs 1 to 10 of this affidavit are true and correct to my personal knowledge, information and belief, and that nothing material has been concealed therefrom.”

Affidavit filed by the respondent No.2 original complainant read thus:

“I, XXX XXX XXX , do hereby solemnly affirm and state on oath as under:

1. I say that I am the widow of Late Kanjibhai Rabari and the mother of Parikshit Kanjibhai Rabari (Rayka Parixit), who is the Respondent No. 2 herein and the original complainant / first informant of the First Information Report being C.R. No. 11217020220277 of 2022 dated 07.04.2022 registered at B-Division Police Station, Patan City, District - Patan, for the offences punishable under Sections 306, 506(1), 507 and 114 of the Indian Penal Code and under Sections 40 and 42 of the Gujarat Money-Lenders Act. 2011. I am well acquainted with the facts and circumstances of the case and am competent to swear this affidavit.

2. I say that pursuant to the said FIR, investigation was concluded and charge-sheet came to be filed, whereafter the case came to be registered as Sessions Case No. 67 of 2022 before the learned 4th Additional Sessions Judge, Patan. The discharge application preferred by the present petitioner below Exhibit 6 came to be rejected by order dated 03.09.2025 and charge came to be framed by order dated 01.10.2025 (Exhibit 9). The present petitioner (original accused No. 1) has preferred the present Criminal Misc. Application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, inter alia praying to quash and set aside the said impugned orders and the consequential proceedings.

3. I say that the co-accused (original accused Nos. 2 and 3) had preferred R/Criminal Misc. Application No. 24488 of 2025 with R/Criminal Misc. Application No. 24489 of 2025 before this Hon'ble Court, wherein my son, the original complainant, had filed his consent affidavit dated 23.03.2026 stating that the matter stood settled between the parties and that he had no objection if the impugned proceedings were quashed. The learned coordinate Bench of this Hon'ble Court (Coram: Hon'ble Mr. Justice Vimal K. Vyas), by judgment and order dated 05.05.2026 (Annexure - F to the present petition), was pleased to allow the said petitions and to quash and set aside the order dated 03.09.2025 passed below Exhibit 6 as well as the order dated 01.10.2025 passed below the Charge (Exhibit 9) in Sessions Case No. 67 of 2022 qua the said co-accused, together with all consequential proceedings arising pursuant thereto on merits as well as on the basis of the consent of my son.

4. I say that the genesis of the dispute between the parties is essentially a monetary transaction, in that my late husband had borrowed a sum of Rs. 1,00,000/- (Rupees One Lakh only) from the present petitioner on interest basis. I say that towards the said amount bor-

rowed by my late husband, my son has paid Rs. 1,00,000/- (Rupees One Lakh only) to the present petitioner, and the dues between the parties stand fully and finally settled. Nothing remains due and outstanding as against the present petitioner, and I have no claim. dispute or grievance of any nature whatsoever against him.

5. I say that since the dispute between the parties has been amicably resolved, I have no animosity, ill-will or grievance against the present petitioner, and I do not wish that the criminal proceedings against the present petitioner be pursued or prosecuted any further. I say that the present petitioner is a senior citizen aged about 70 years, and continuation of the criminal proceedings against him would serve no useful purpose and would merely prolong the agony of both the families. claim. dispute or grievance of any nature whatsoever against him.

I say that since the dispute between the parties has been amicably resolved, I have no animosity, ill-will or grievance against the present petitioner, and I do not wish that the criminal proceedings against the present petitioner be pursued or prosecuted any further. I say that the present petitioner is a senior citizen aged about 70 years, and continuation of the criminal proceedings against him would serve no useful purpose and would merely prolong the agony of both the families.

I, therefore, hereby give my free and unequivocal consent, and state that I have no objection whatsoever, for quashing and setting aside the First Information Report being C.R. No. 11217020220277 of 2022 registered at B-Division Police Station, Patan City, and all consequential proceedings arising therefrom including Sessions Case No. 67 of 2022 pending before the learned 4th Additional Sessions Judge, Patan - qua the present petitioner Amratbhai Govabhai Desai. I have no objection if



the present Criminal Misc. Application is allowed in terms of the prayers made therein.

6. I, therefore, hereby give my free and unequivocal consent, and state that I have no objection whatsoever, for quashing and setting aside the First Information Report being C.R. No. 11217020220277 of 2022 registered at B-Division Police Station, Patan City, and all consequential proceedings arising therefrom including Sessions Case No. 67 of 2022 pending before the learned 4th Additional Sessions Judge, Patan - qua the present petitioner Amratbhai Govabhai Desai. I have no objection if the present Criminal Misc. Application is allowed in terms of the prayers made therein.

7. I say that this affidavit is sworn by me voluntarily. out of my own free will and accord and in a sound state of mind. without any coercion, duress, pressure, inducement. misrepresentation or undue influence from the present petitioner, from my son, or from any other quarter whomsoever. I have read and understood the contents of this affidavit (which have also been read over and explained to me in Gujarati), and I fully understand the nature and consequences of the consent hereby given.

8. I undertake that I shall not raise any dispute, claim or grievance in respect of the subject-matter of the said FIR at any time hereafter, and I shall remain present before this Hon'ble Court as and when required and shall abide by any order or direction that this Hon'ble Court may deem fit to pass.

9. Whatever is stated hereinabove is true and correct to the best of my knowledge, information and belief, and I believe the same to be true. No part of it is false and nothing material has been concealed therefrom.

VERIFICATION



I, the deponent above-named, do hereby verify and solemnly affirm that the contents of paragraphs 1 to 9 of this affidavit are true and correct to my personal knowledge, information and belief, and that nothing material has been concealed therefrom.”

3. As this matter pertains to abetment to commit suicide and one person had lost his life, instead of disposing of the matter, this Court has examined the case on merits.
4. As per the allegations made in the complaint, which is lodged by the son of the deceased, the following allegations are made:

The impugned FIR bearing C.R. No.11217020220277 of 2022 came to be lodged by the complainant against the present applicants-accused before the B-Division Police Station, Patan City, for the offences punishable under Sections 306, 506(1), 507 and 114 of the Indian Penal Code, as well as under Sections 40 and 42 of the Gujarat Money-Lenders Act, 2011.

5. The case of the prosecution, as alleged, is as under:

As per the case of the prosecution, the complainant, who is the son of the deceased, had lodged the impugned FIR before the B-Division Police Station, Patan city, inter alia, stating that in the year 2017-2018, his father (i.e. the deceased) had taken a loan



of Rs.1 lakh @ 10% interest from the accused no.1, Amratbhai Desai, and a loan of Rs.1 lakh @ 10% interest from the accused no.3, Dharamsinhbhai Taljabhai Desai. The complainant further stated that although the loan amounts were repaid by his father to the accused, they were still demanding more money and threatening to implicate him in cases under Section 138 of the Negotiable Instruments Act, by depositing the cheques given to them by his father towards the security of the loan amounts advanced to his father. It is alleged by the complainant that a day preceding the incident, ie. on 06.04.2022 at around 9:27 a.m., the accused no.1 had called and threatened the complainant, demanding either to repay the debt or vacate the society. Therefore, the complainant had informed about the same to his father, who, in turn, told him that he has already repaid the entire amount to the accused persons, and they are mentally torturing him. It is alleged that due to the severe mental torture inflicted by the accused persons, his father committed suicide by consuming poisonous substance on 07.04.2022 at around 12:30 in the midnight. The deceased was rushed to the hospital at Dharpur, where, he died during the treatment.

6. This Court has examined the material of the



investigation, which reveals that as per the PM report, the deceased died due to cardiac arrest and though the allegations are made of consuming poison in the FIR, the viscera report shows no sign of poisonous substance. The panchnama carried out by the police did not disclose the presence of any bottle or article containing poisonous substance at the scene of offence, neither does any documentary evidence suggest that the deceased had purchased or possessed any poisonous substance. In that background, it is difficult to believe that the deceased committed suicide. However, at this stage, even if the case of the prosecution is accepted as it is, then also the allegations are made that the instigations were made by the applicant on the phone of the complainant and he was threatened on the ground of non-payment of the borrowed amount.

7. This Court has also referred the decision rendered by the Apex Court in the case of **M. Arjunan vs The State Rep.** by its Inspector Of Police reported in **(2019) 3 SCC 315** wherein in identical situation the Apex Court has held that the suicide note which is written by the deceased refers about the inability to meet the financial crunch and also his inability to repay the borrowed amount and the deceased was subjected to pressure for payment and was facing

the financial difficulty. It is held that the suicide note does not indicate that there was an instigation by the appellant which had driven the deceased to take extreme steps to commit suicide. The Apex Court further held that the essential ingredients of the offence under Section 306 I.P.C. are: (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, accused cannot be held liable for the offence punishable under Section 306 I.P.C.

8. This Court has also referred to the decision of the Apex Court rendered in SLP (Criminal) No.4644 of 2025 in the case of **Dhirubhai Nanjibhai Patel Lotwala vs. State of Gujarat and Anr**, wherein, in an identical factual situation, it has been held that if a creditor merely makes a phone call to the debtor demanding repayment of the money lawfully due, such an act, by itself, cannot constitute an offence so as to prosecute the creditor.

9. This Court has referred the decision rendered by the



Apex Court in the case of **Mahendra Awase v. State of M.P.**, reported in **(2025) 4 SCC 801** wherein the Apex Court has held as under:

“16. In order to bring a case within the purview of Section 306IPC there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC.

17.M. Mohan v. State [M. Mohan v. State, (2011) 3 SCC 626 : (2011) 2 SCC (Cri) 1] followed Ramesh Kumar v. State of Chhattisgarh [Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618 : 2002 SCC (Cri) 1088] , wherein it was held as under :

“41. This Court in SCC para 20 of Ramesh Kumar [Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618 : 2002 SCC (Cri) 1088] has examined different shades of the meaning of “instigation”. Para 20 reads as under : (SCC p. 629)

‘20. Instigation is to goad, urge forward, provoke, incite or encourage to do “an act”. To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no

other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.’

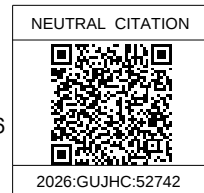
In the said case this Court came to the conclusion that there is no evidence and material available on record wherefrom an inference of the appellant-accused having abetted commission of suicide by Seema (the appellant's wife therein) may necessarily be drawn.”

18. Thereafter, this Court in M. Mohan [M. Mohan v. State, (2011) 3 SCC 626 : (2011) 2 SCC (Cri) 1] held :

“45. The intention of the legislature and the ratio of the cases decided by this Court are clear that in order to convict a person under Section 306IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he/she committed suicide.” (emphasis supplied)

19. As has been held hereinabove, to satisfy the requirement of instigation the accused by his act or omission or by a continued course of conduct should have created such circumstances that the deceased was left with no other option except to commit suicide. It was also held that a word uttered in a fit of anger and emotion without intending the consequences to actually follow cannot be said to be instigation.

20. Applying the above principle to the facts of the present case, we are convinced that there are no grounds to frame charges under Section 306IPC against the appellant. This is so even if we take the prosecution's case on a demurrer and at its highest. A reading of the suicide note reveals that the appellant



was asking the deceased to repay the loan guaranteed by the deceased and advanced to Ritesh Malakar.

21. It could not be said that the appellant by performing his duty of realising outstanding loans at the behest of his employer can be said to have instigated the deceased to commit suicide. Equally so, with the transcripts, including the portions emphasised hereinabove. Even taken literally, it could not be said that the appellant intended to instigate the commission of suicide.”

10. Having examined the material and the judgment of the Apex Court, coupled with the fact that, as per the postmortem report, the death of the deceased was natural, and the consent given by the complainant and the wife of the deceased, in the opinion of this Court, continuation of the process would be an abuse of the process of law and would amount to a miscarriage of justice.

11. Resultantly, the present application is allowed. The FIR No.11217020220277 of 2022 registered with Patan B Division Police Station, as well as all consequential proceedings arising therefrom, are hereby quashed and set aside qua the applicant. Rule is made absolute accordingly. Direct service is permitted.

M.M.MIRZA

(M. K. THAKKER,J)