



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 265 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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LILABEN GOVINDBHAI MENAT (PATEL) & ORS.
 Versus
 STATE OF GUJARAT & ANR.

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Appearance:

MS RHEA CHOKSHI(10808) for the Applicant(s) No. 1,2,3,4
 MR ANKIT Y BACHANI(5424) for the Respondent(s) No. 2
 MR. ROHAN SHAH, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR.JUSTICE P. M. RAVAL

Date : 05/08/2026

JUDGMENT

1. Rule fixed forthwith. Learned APP waives service of rule on behalf of the respondent – State.

2. The petitioners have invoked the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973, seeking quashing of the FIR being C.R. No. I-83 of 2015 registered with Gadh Police Station, Dis.: Banaskantha for the offences punishable under Sections 394, 325, 323, 324, 504, 506(2), and 114 of the Indian Penal Code.

3. The facts in the FIR in nutshell are as follows:



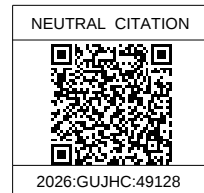
3.1 My name is Naranbhai Parmabhai, by caste Kapadi (Patel), age 60, occupation: agriculture, residing at: Madana (Gadh), Taluka: Palanpur, Mobile No.: 9624271286.

3.2 I state upon being questioned in person that I reside at the above-mentioned address and engage in farming. I have three sons, among whom the eldest is Jayantibhai, younger to him is Maheshbhai, and younger to him is Maganbhai. We all live together in a joint family.

3.3 Today around 9:00 AM, I was present at my home. Taking my tractor No. GJ-8-AG-8385, I went to the field of Patel Rameshbhai Pelabhai of our village to collect the remaining money for fodder (jowar bundles) that Rameshbhai had previously purchased from me for ₹50,000, out of which ₹20,000 was paid as advance.

3.4 Upon reaching the field on my tractor, Rameshbhai paid me ₹50,000 in the presence of his brother-in-law Girishbhai Govindbhai Sesi, resident of Patosana. Thereafter, Rameshbhai told me that since fodder (rajko) was to be sown in his field adjacent to my tractor, I should plow it using the tractor. After telling me this, Rameshbhai and Girishbhai left their field.

3.5 While I was plowing Rameshbhai's field with my tractor, Govindbhai Parmabhai of our village came to me and taunted me, asking why I brought the tractor to plow Rameshbhai's field and why I was watering Rameshbhai's field. Getting angry,

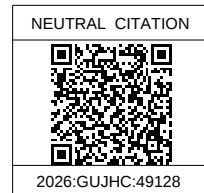


Govindbhai turned off my tractor, started abusing me profanely, and when I asked him not to hurl abuses, he called out to his son Nareshbhai who was in the adjacent field. Nareshbhai arrived carrying an iron pipe and a wooden stick. Additionally, Govindbhai's wife Lilaben and their brother Motibhai Parmabhai's wife Sitaben came running.

3.6 This Govindbhai Parmabhai took the iron pipe from his son's hands and hit me on the head, while Lilaben and Sitaben held me. Nareshbhai struck me on my left hand and right wrist with the stick. All four of them together pushed me down and beat me with fists and kicks. During this time, ₹50,000 cash that was with me fell somewhere.

3.7 Thereafter, hearing the commotion, Viraben Velabhai, Nitaben Girishbhai Sesi, and others arrived at the spot and rescued me from further beatings. They reasoned with those people and sent them towards their field. While leaving, those attackers threatened, stating that since Nitaben, Viraben, and others arrived, I was saved, but next time they find me alone, they will kill me and chop me into pieces.

3.8 As I was bleeding, I took my tractor to Gadh Police Station and summoned Rameshbhai and Girishbhai via telephone. Then, the three of us-myself, Rameshbhai, and Girishbhai-hired a private taxi from Gadh and went to Palanpur Civil Hospital for treatment. I received treatment in the Trauma Centre and have been admitted to the Male Ward, where my treatment is currently ongoing. I am in fully conscious.



4. Heard, the learned advocate Mr. Tejas Barot for the petitioner.

5. Learned Advocate Mr. Tejas Barot for the petitioners submitted that, while issuing notice on 07.01.2026, this Court had prima facie observed that no case was made out for the applicability of Section 394 of the IPC. Placing reliance on the decision in ***Dharmendrabhai Nandubhai Patel & Ors. v. State of Gujarat, reported in 2011 (3) GLH 739***, learned counsel submitted that he does not press the challenge with regard to the other offences and confines the present petition to the offence under Section 394 of the IPC. It was contended that the FIR dated 14.12.2015 merely states that an amount of ₹5,000 was lost during the scuffle. However, in the subsequent statement dated 18.12.2015, the complainant alleged for the first time that accused Govindbhai had forcibly snatched ₹50,000 from his pocket. It was, therefore, submitted that the subsequent improvement is a clear embellishment and, even if the FIR is read as a whole, no offence under Section 394 of the IPC is made out.

6. *Per contra*, learned Advocate Mr. Ankit Bachani for the original complainant, supported by the learned APP for the State, submitted that the FIR was lodged while the complainant was undergoing treatment at the Trauma Centre and was not in a position to narrate all the facts in detail. It was argued that, after his condition improved, the complainant gave a further statement on 18.12.2015 explaining the incident in greater detail, specifically alleging that the accused caught hold of him



and forcibly snatched ₹50,000 from his pocket. It was, therefore, submitted that a specific role is attributed to the accused and, in such circumstances, this Court ought not to quash the offence under Section 394 of the IPC. The petition, therefore, deserves to be rejected.

7. At the outset, the reliance was placed by learned advocate Mr. Tejas Barot in the case of ***Dharmendrabhai Nandubhai Patel and Anothers Vs. State of Gujarat 2011 (3) GLH 739*** more particularly para 21 would be relevant.

“21. Now, in this background of the entire prosecution case and the evidence on record, can it be said that the common object of the unlawful assembly was to commit an offence of dacoity. Can it be said that the motive behind the crime was commission of dacoity or whether the common object of the unlawful assembly was to thrash the first informant for the reason that he developed intimacy with Gitaben and got married with Gitaben surreptitiously without seeking any permission from the family members of Gitaben. This is the core issue which, prima facie, needs to be considered in the appeal. However, prima facie, I am of the view that without going much into appreciation of evidence the conviction under Sections 395 and 397 appears to be unsustainable. I am of the view that the Court owes a duty to consider, as to whether the accused has a fair chance of succeeding in the appeal or not ? I may consider my prima facie opinion in light of what has been explained by the Division Bench of this High Court so far as Section 390 of IPC is concerned. The Division Bench



of this High Court, in the case of *Himatsing Shivsing v. The State of Gujarat*, reported in 1961 GLR 678, has observed as under:-

Theft amounts to 'robbery' if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint. Before theft can amount to 'robbery', the offender must have voluntarily caused or attempted to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint. The second necessary ingredient is that this must be in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft. The third necessary ingredient is that the offender must voluntarily cause or attempt to cause to any person hurt etc., for that end, that is, in order to the committing of the theft or for the purpose of committing theft or for carrying away or attempting to carry away property obtained by the theft. It is not sufficient that in the transaction of committing theft hurt etc., had been caused. If hurt etc., is caused at the time of the commission of the theft but for an object other than the one referred to in Sec.390. I.P.Code, theft would not amount to robbery. It is also not sufficient that hurt had been caused in the course of the same transaction as commission of the theft. The three ingredients mentioned in Sec.390, L.P.Code, must always be satisfied before theft can amount to robbery, and

this has been explained in Bishambhar Nath v. Emperor, A.I.R. 1941 Oudh. 476, in the following words :-

*The words "**for that end**" in Sec.390 clearly mean that the hurt caused by the offender must be with the express object of facilitating the committing of the theft, or must be caused while the offender is committing the theft or is carrying away or is attempting to carry away the property obtained by theft. It does not mean that the assault or the hurt must be caused in the same transaction or in the same circumstances.*

*In **Karuppa Gounden v. Emperor, A.I.R. 1918 Madras 321**, which followed two Calcutta cases of **Otaruddi Manjhi v. Kafiluddi Manjhi, 5 C.W.N. 372**, and **Kind Emperor v. Mathura Thakur, 6 C.W.N. 72**, it has been observed at page 824 as follows:-*

*Now it is our duty to give effect to the words "for that end". It would have been open to the legislature to have used other words which would not raise the difficulty that arises here. The Public Prosecutor has been forced to argue that "for that end" must be read as meaning 'in those circumstances'. In my opinion we cannot do that in construing a Section in the Penal Code. Undoubtedly. words 'in those circumstances' would widen the application of the Section and we are not permitted to do that. The matter has been considered in two judgments of the Calcutta High Court one of which is reported as **Otaruddi Manjhi v.Kafiluddi Manjhi 5 C.W.N. 372**. Their Lordships put the question in this sway:-*

It seems to us that the whole question turns upon the words "for that end". Was any hurt or fear of instant hurt, that was caused in the present case, caused for the end of the commission of the theft? We think not. It seems to us that whatever violence was used for the purpose of is dispossessing the persons who were already in possession of the premises in question and had no relation to the commission of theft, although theft was committed at the same time.

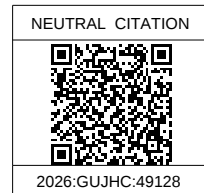
*The language used in another case reported as **King Emperor v. Mathura Thakur, 6 C.W.N. 72**, is as follows:-*

The question here arises whether Mathura Thakur when he attacked Soman Dhania, did so for the end referred to, namely, for the purpose of carrying away the paddy, which had been harvested.

Those judgments in my opinion state the obvious intention of the Section and we are bound to give effect to it and I, therefore, follow the decisions in those two cases."

8. Having considered the principles laid down in the aforesaid judgments, what is required to be examined is whether the hurt or fear of instant hurt allegedly caused in the facts of the present case was inflicted for the purpose of committing theft so as to constitute the offence of robbery.

9. A plain reading of the FIR reveals that the scuffle arose on



account of a dispute raised by the accused persons as to why the complainant was tilling and watering the field. There is not a single averment in the FIR, nor any material on record, to indicate that the accused had entered the field with the intention of committing robbery or that the alleged assault was committed for facilitating the commission of theft.

10. In view of the aforesaid principles and having regard to the facts of the present case, even if the complainant's subsequent statement dated 18.12.2015 is taken into consideration, which appears to be an improvement over the version set out in the FIR, no offence under Section 394 of the IPC is made out qua the present petitioner.

11. Accordingly, the present application is partly allowed. The FIR being C.R. No. I-83 of 2015 registered with Gadh Police Station, District Banaskantha, is quashed and set aside qua the present petitioners only insofar as the offence punishable under Section 394 of the IPC is concerned. So far as the rest of the offences alleged in the FIR are concerned, the law shall take its own course.

12. Rule is made absolute to the aforesaid extent. Direct service is permitted.

MOHD SAIF ULLAH

(P. M. RAVAL, J)