

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 10969 of 2021**

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[REDACTED]

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR. RAHUL R DHOLAKIA(6765) for the Applicant(s) No. 1
NOTICE SERVED for the Respondent(s) No. 2
MR. RONAK RAVAL, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MRS. JUSTICE M. K. THAKKER**Date : 10/04/2026****ORAL ORDER**

1. This application is filed under section 482 of the Code of Criminal Procedure, 1973 for quashment of the FIR registered with Dumas Police Station, Surat, being I-CR No. 11210006210299 of 2021 for the offences punishable under Sections 376(1), 114, 506(1)(2) of the IPC alleging the accusations against the four persons wherein, the present applicant was named as accused no.1.

2. It is the case of the first informant that she is running a beauty parlour at Varachha, Surat, and had sent a friend request on the Facebook ID of the present applicant. On 25.01.2019, a friend request was sent by the complainant on Facebook account of the present applicant which was accepted by the present applicant, and thereafter, there were regular contacts between the present applicant and the complainant.



As per the allegations, one day, the present applicant had called the victim and insisted to meet at his office, in turn, the first informant went to the office of the applicant wherein one Bipinbhai was introduced by the present applicant who had offered the job to the first informant in the business of import and export. The first informant thereafter was offered a cold drink, and having the same she felt dizziness and had lost consciousness. On regaining consciousness, after one and half hour, she left the office on her Aactiva. Thereafter, again the applicant had called her and invited at the house of one Deenaben who is accused no.4 for meeting and lunch. She went there and had realized that the present applicant as well as the accused no.4 had consumed alcohol, and she was also offered, but she denied to consume the same. She left the house of accused no.4, and thereafter, on multiple occasions, she met the applicant. On 23.10.2020, the applicant had informed the first informant to make food for about 4-5 people and informed to visit the office situated at Vesu, and she went there, again she was offered a drink, and on taking the same, she vomitted, and to change the clothes, the accused no.4 had taken her in her room situated at the upper floor of the said premises. The applicant came there and had started taking the advantage of the situation which was objected by the first informant, and she felt dizziness, she laid down in the room, started video recording on her phone. As per the contention, physical relations were made by the applicant against the will of the complainant, and on gaining the consciousness, she left the room where the applicant had asked not to disclose the incident to anyone or to face dire consequences. The first



informant was dropped back to V. R. Mall. Thereafter, on number of occasions, the applicant indulged into physical relations with the first informant and as the first informant was forced after showing the nude photographs of different girls to come as and when she would be called as well as to provide the other girls also, the first informant has lodged the FIR on 11.06.2021 stating the period of offence from 25.01.2019 onwards. The said FIR is subject matter of challenge before this Court at the hands of present applicant/accused no.1.

3. Heard learned advocate Mr. Dholakia for the applicant and learned APP Mr. Ronak Raval for the State.

3.1. It is submitted by learned advocate Mr. Dholakia that as per the contentions recital of the FIR, the first informant aged around 38 years had sent friend request to the present applicant. The present applicant had responded the request, and thereafter, they came into contact with each other, and had developed physical relations. It is submitted by learned advocate Mr. Dholakia that keeping mobile on on 23.10.2020, the first informant had made physical relations with the applicant, and purpose of keeping mobile on is to extort the money or to blackmail the present applicant. It is submitted by learned advocate Mr. Dholakia that the transcript of the call recording between the present applicant and first informant which is produced suggests that time and again the first informant has demanded money and at the end when ornaments of the wife of the present applicant was demanded which was denied, the same is resulted into FIR. It is submitted by learned advocate Mr. Dholakia that present applicant had



filed an application before the Dumas Police Station, Surat City, on 08.06.2021, giving the conversations of the present applicant and the first informant stating that he has to give Rs.60,00,000/- to settle the dispute or give the ornaments of the wife. It is submitted that the first informant had entered into physical relations with the applicant with the consent, however, the applicant became victim of honey trap. Learned advocate for the applicant has relied upon the decision rendered by the Hon'ble Apex Court in case of **State of Haryana Vs. Bhajanlal & Ors** reported in **AIR 1992 SC 604**, and submitted that on bare reading of the FIR, no cognizable offence is disclosed, therefore, the same is covered under the criteria (1) and (5) of the above-mentioned case. On submitting the same, it is prayed to allow the application by quashing the impugned FIR.

3.2. Per contra, learned APP Mr. Ronak Raval submitted that as per the FSL report which is collected by the investigating officer, the DVD contains the physical relations of the applicant and the first informant which was recorded by the first informant. It is also submitted that the statement of the victim under Section 164 of Cr.P.C. is also part of the record. It is submitted that chargesheet is not filed, therefore, at this stage, no interference be called for, and application may be dismissed.

4. Having considered the submissions made by the learned advocates for the respective parties and on referring the allegations made in the FIR, the question arise for consideration before this Court is that whether the case of the



applicant falls in criteria which is mentioned by the Apex Court in the case of Bhajanlal (supra)?

4.1. To test the above question, allegations which are made in the FIR as discussed above suggest following things;

- (a) The first informant is a married lady of aged 38 years, running beauty parlour.
- (b) As per the recital of the FIR, the friend request was made by the first informant on Facebook account of the present applicant. In turn, the present applicant had responded, and thereafter, on various time, they made calls to each other. For the first incident which is stated to have been occurred in the office of the present applicant situated at Vesu, there was no specific date and time stated in the FIR. It is stated that after consuming the cold drinks she felt dizziness, and regained consciousness after one and half hours, and then after she left on her Activa. Second time, when she was called at the house of accused no.4, she was offered to consume the liquor which she denied, and had left the house of accused no.4. There after also, there was no dates and time stated but has mentioned that after two months of the second incident, she again went to meet the applicant at the house of accused no.4 where she was proposed to make friendship by the present applicant which she denied.
- (c) Fourth time, she went to V. R. Mall, and there after, keeping her Activa at that place, she accompanied present applicant in his car where along with the other accused the first informant came to the house of one Bipin Ramani situated at Dumas.



(d) Thereafter, fifth time, the applicant visited the beauty parlour of the first informant where she was offered to visit the office in 2-3 days preparing the meal of 4-5 persons. She went there on 23.10.2020, and recorded the video in her mobile of physical relations with the applicant. Again, on number of occasions, she accompanied the applicant and developed physical relations.

5. At this stage, reference of the provisions for which the alleged offence charged is required to be made.

Section 376(1) of IPC: Punishment for rape.—(1) Whoever, except in the cases provided for in sub-section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which ³[shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine].

Section 114 of IPC: Abettor present when offence is committed.—Whenever any person who is absent would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

Section 506 of IPC: Punishment for criminal intimidation.—Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

If threat be to cause death or grievous hurt, etc.—and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or ¹[imprisonment for life], or with



imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

6. This Court has referred to the decision of the Apex Court in **State of Haryana v. Bhajan Lal**, reported in **1992 Supp (1) SCC 335**, wherein the Apex Court has laid down the guidelines governing the exercise of inherent powers under Section 482 of the Code of Criminal Procedure which are reproduced hereinbelow:

“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.

(i) 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.

(ii) 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.

(iii) 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.

(iv) 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.

(v) 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.

(vi) 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.

(vii) 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. On referring the above provisions and the facts of the present case, it emerges that this is a case of honey trap and not, in any manner, a case of rape. Keeping the video on,



indulging into physical relations, sending friend request, time and again accompanied the applicant is nothing but consensual relations made by the complainant which was subsequently used to extort the money. In that background, the applicant cannot be sent for the trial for false allegations. Therefore, this Court is of the opinion that the case of applicant falls under the criteria (i) and (v) of the judgment in the case of ***Bhajanlal (supra)***.

8. Resultantly, the present application is allowed. The FIR being I-CR No.11210006210299 of 2021 registered with Dumas Police Station, Surat, as well as all consequential proceedings arising therefrom, are hereby quashed and set aside.

(M. K. THAKKER,J)

AMIT ITALIAN