

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC. APPLICATION (FOR QUASHING & SET
ASIDE FIR/ORDER) NO. 6539 of 2015****FOR APPROVAL AND SIGNATURE:
HONOURABLE MR.JUSTICE P. M. RAVAL**

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Approved for Reporting	Yes	No
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MAHENDRABHAI CHANDUBHAI PATEL & ANR.**Versus****STATE OF GUJARAT & ORS.**

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Appearance:**MR RR MARSHALL, SR ADVOCATE with ADITYA R****PARIKH(8769) for the Applicant(s) No. 1,2****MR VIRAT G POPAT(3710) for the Respondent(s) No. 3****MR KM ANTANI, APP for the Respondent(s) No. 1,2**

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CORAM:HONOURABLE MR.JUSTICE P. M. RAVAL**Date : 28/09/2026****ORAL JUDGMENT**

1. Invoking jurisdiction of this Court under Section 482 of Criminal Procedure Code, 1973 (the Code) by this application, the applicants have prayed to quash the FIR being C.R. No. I-158 of 2012, dated 09.10.2012, lodged before Olpad Police Station, Dist.:



Surat (Rural) for the offences punishable under Sections 465, 467, 468, 471, and 114 of the Indian Penal Code, 1860 (IPC).

2. The prosecution case, as narrated in the FIR, is that complainant's father namely Kalidas Laljibhai Patel's mother, Dahiben Laljibhai Patel held ancestral land at Village Sosank, Taluka: Olpad. Dahiben's father, Vallabhbhai Hansjibhai, had three children: 1) Jagjivan Vallabh, 2) Lallu Vallabh, and 3) Dahiben Vallabh. That, Dahiben, received Block No. 72, located at Sosank Village as a tenant share (Ganot hak) from her elder brother Jagjivanbhai. By Revenue Entry No. 468 in 1957, Dahiben Vallabh Hansji's name was entered as a protected tenant. Subsequently, *via* Revenue Entry No. 495 dated 30.09.1959, the land of Block No. 72, Village: Sesak, Taluka: Olpad, District Surat, was transferred to Dahiben Vallabh Hansji's name as a new tenure land (Navi Sharat). Since then, possession remained with her. Dahiben passed away while residing with the original complainant at Adajan, Surat. In the land bearing Block No. 72 which was belonging to Dahiben, which remained under her lawful possession, one Mahendrabhai Chandubhai Patel and his wife Sulochanaben Mahendrabhai Patel created a forged panchnama. In it, they falsely represented Dahiben and Kamuben as the two daughters of Vallabh Hansji, falsely claimed Sulochanaben to be Kamuben's daughter, and entered Sulochanaben's name as a co-owner/niece (bhanej) *via* Revenue Entry No. 1152 dated 19.01.1987. It is stated that the claim in that



forged panchnama that Kamuben was Dahiben's sister is completely false as in fact, Kamuben was the daughter of Dahiben's brother, Jagjivanbhai Vallabhbhai and thus, Dahiben would be her paternal aunt, Foi-Bhatiji. It is further alleged that the panchnama falsely showed Kamuben as deceased at that time, whereas she actually passed away in the year 2005. It is also alleged that Sulochanaben is not Kamuben's daughter, which is supported by a Pedigree (Pedhinama) and the Death Certificate of Kamuben, both of which were attested by Mahendra Chandubhai Patel himself as a witness, and produced with the FIR in question. Furthermore, when Jagjivan Vallabhbhai Patel died on 27.11.1983, his heirship entry was entered into Block Nos. 90 and 125 of Sosank Village *via* Revenue Entry No. 1356, showing Kamuben as his only legal heir by preparing a Pedigree (Pedhinama) and the same was also signed by Mahendra Chandubhai Patel as a witness. Thus, Mahendrabhai was fully aware that Kamuben was Jagjivanbhai's daughter and not Dahiben's sister. Despite such knowledge, he forged documents showing Kamuben as Dahiben's sister and his wife Sulochanaben as Kamuben's daughter to unlawfully insert his wife's name into the revenue records of Block No. 72. Subsequently, a Revenue Entry No. 1277 came to be posted to delete the name of Dahiben as she died on 13.08.1988 without direct descendants (nirvansh), on the basis of the Death Certificate, Panchnama and recording statements, and panchnamas. This was allegedly orchestrated solely so that Sulochanaben Mahendrabhai Patel, entered *via* Entry No. 1152,



would emerge as the sole surviving owner on record. This entry is fraudulent as Dahiben's direct lineal descendants *viz.* the father of the *de facto* complainant and his sisters, and their families, are very much alive. Consequently, the *de facto* complainant challenged that fraudulent transfer before the District Collector, Surat by *Suo Motu* Revision Application No. 22 of 2011. Upon hearing the matter, the District Collector cancelled Entry No. 1152 dated 19.01.1987 and ordered the entry of the genuine direct legal heirs of Dahiben Vallabh onto Block No. 72. The said order is also submitted with the FIR. Sulochanaben Mahendrabhai Patel appealed to the Special Secretary, Revenue Department, Ahmedabad, seeking an interim stay against the District Collector's order, but her stay application was rejected, copy of which was also enclosed. Thus, Mahendrabhai Chandubhai Patel and Sulochanaben Mahendrabhai Patel fabricated false Pedigrees and forged panchnamas, falsely claiming Sulochanaben to be a niece of Dahiben, falsely declared Dahiben as having died issueless, and illegally usurped Block No. 72, thereby cheating the rightful heirs out of their lawful property, for which the FIR in question came to be filed.

3. Heard, learned senior advocate Mr. R. R. Marshall appearing with learned advocate Mr. Aditya Parikh for the applicants, learned Additional Public Prosecutor Mr. K. M. Antani for the respondent No. 1 – State and learned advocate Mr. Virat Popat for the respondent No. 3 - *de facto* complainant, at length.



3.1 The bone contention of the learned senior advocate for the applicants is two fold: *firstly*, he vehemently argued that the FIR in question suffers from exorbitant delay inasmuch as, for the revenue entry, which was carried out in the year 1987, to be precise, Revenue Entry No. 1152 dated 19.01.1987, whereby, the name of the applicant No. 2 came to be mutated in the revenue record with respect to the land bearing Block No. 72 situated at Village: Sosank, Taluka: Olpad, District: Surat; and *secondly*, the dispute is purely of civil nature for which criminal machinery is motioned after so many years and thus, he has argued that only on these grounds, the FIR in question requires to be quashed.

3.2 It is submitted the even otherwise the ingredients of the offence alleged against the present applicants are not at all satisfied inasmuch as, the applicants are in continuous possession of the land in question by virtue of the Revenue Entry in their favour.

3.3 It is submitted that after about 24 years, the District Collector, issued a show-cause notice with respect to the Entry No. 1152 dated 19.01.1987 in *suo motu* revision proceedings, which was duly resisted by the applicants. However, vide order dated 14.09.2011 cancelled such entry, which was challenged before the Secretary (Appeals) being Revision Application No. 201 of 2011, wherein, stay was also sought of the order dated 14.09.2011, who refused to extend stay pending revision by an order dated

01.05.2012. The said order came to be challenged before this Court by way filed Special Civil Application No. 8318 of 2012 wherein, notice came to be issued and interim stay came to be granted. However, it is submitted that the Deputy Mamlatdar, in violation of the order passed by this Court, certified the mutation entry in favour of the *de facto* complainant and therefore, a Civil Application No. 6660 of 2013 was filed challenging the said mutation entry, wherein, by an order dated 13.08.2013, this Court set aside the certification of mutation entry in favour of the *de facto* complainant.

3.4 It is submitted that the applicant No. 2 has also filed a Special Civil Suit No. 434 of 2011 before the competent Civil Court at Surat for declaration and permanent injunction.

3.5 The learned senior advocate for the applicants would submit that the *de facto* complainant has kept conspicuous silence over the fact of execution of a Consent Deed dated 17.01.1987 of Dahiben, his grandmother and thus, present FIR is nothing but an attempt to procure more money by using pressure tactic.

3.6 It is submitted that none of the heirs except the present respondent No. 3 - *de facto* complainant has come forward to challenge the entry in question and/or has taken any objection and that too, after so many years, and accordingly, making such submissions, he submitted that civil dispute has been given



criminal colour and accordingly, when civil suit is already filed, it is urged that present FIR and the consequential proceedings *qua* the applicants may be quashed and set aside as no *prima facie* case is made out against the present applicants.

3.7 In support, the learned senior advocate for the applicants has relied upon following decisions of the coordinate Bench of this Court in: *i) Vasudev bhai Kedarmal Agrawal and 3 Others v. State of Gujarat and Another, 2017 SCC OnLine Guj 2706, and ii) Madhav bhai Babubhai Matiya v. State of Gujarat and Others, 2019 SCC OnLine Guj 3337.*

4. *Conversely*, the learned Additional Public Prosecutor for the State as well as the learned advocate for the respondent No. 3 - *de facto* complainant, at the very outset, would submit that earlier the applicants had preferred a quashing application being Criminal Misc. Application No. 15732 of 2012 for quashment of the present FIR only, which came to be withdrawn *vide* order dated 30.01.2013 with a view to pursue the remedy before the trial Court. Accordingly, this application, which is filed with the same prayer, is not maintainable under the law and accordingly, it is requested that this Court may not entertain this second application.

4.1 *Nonetheless*, while opposing this application on merits, the learned advocates for the respondents would submit that the applicants cannot simply shirk from their criminal liability only by



saying that it is a civil wrong inasmuch as, by showing false relationship *viz.* Kamuben, who is the daughter of the brother of Dahiben (grandmother of the *de facto* complainant) was shown as the sister and thereby, preparing false Pedigree and the Panchnama in which, said Kamuben was shown as 'deceased', Entry of the year 1987 came to be recorded and though, said Kamuben died in the year 2005 only (on 22.09.2005), meaning thereby, she was very much alive at the time of execution of the Consent Deed, directly, the name of present applicant No. 2 came to be mutated in the revenue record and accordingly, a clear case of cheating and forgery having been made out, the matter requires test of trial Court.

4.2 It is submitted that the documents themselves speak for themselves inasmuch as, on one side, in the year 1987, the applicants show Dahiben as having no progeny and Kamuben as her sister and present applicant No. 2 as her daughter in the Pedigree, however, in the suit filed by the applicant No. 2, she produces another Pedigree, which shows that Kamuben had no daughter namely Sulochanaben *i.e.* the present applicant No. 2. It is further on record that Dahiben had three children *i.e.* two daughters namely Jayantiben Lalbhai Patel and Divaliben Lalbhai Patel and one son namely Kalidasbhai Lalbhai Patel who is the father of the *de facto* complainant. Thus, they would submit that a clear case is made out as alleged in the FIR.

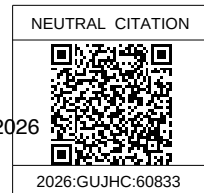


4.3 It is submitted that during the investigation, statements of various witnesses, have been recorded, a perusal of which reveal that clear case, as alleged in the FIR, is made out against the present applicants as witnesses have supported the case of the prosecution and thus also, the matter requires full-fledged trial.

4.4 The learned advocates for the respective respondents would submit that District Collector, by an order dated 14.09.2011 cancelled the said entry of 1987, and thereafter, in appeal, the Secretary (Appeals) has declined to extend stay *vide* order dated 01.05.2012 and it is only after moving this Court, the Court granted interim stay, however, the said fact cannot brush aside the crime that is committed by the applicants.

4.5 Inviting the attention of the Court to the plaint of Special Civil Suit No. 434 of 2011 filed by the present applicant No. 2, the learned advocates would submit that the applicant No. 2 herself has admitted the fact of grabbing the land in question prior to about two years of the land was mutated in her name on 19.01.1987 and taking possession and cultivating the land.

4.6 So far as delay is concerned, it is submitted that is for the first time upon suo motu revenue proceedings came to be initiated, the *de facto* complainant complainant immediately swung into action and filed the FIR in question and thus, it cannot be said that there is exorbitant delay and thereby, the proceedings cannot be



quashed merely on that ground when *prima facie* case is made out.

4.7 It is submitted that the fact of false documents itself proves *mala fide* intention and ulterior motive of the applicants and in the circumstances, it cannot be said that this is a civil dispute being given a criminal colour and they submit that the matter needs a thorough test of trial so as to churn out the truth.

4.8 The learned advocate for the *de facto* complainant would submit that the applicants have not approached the Court with clean hands and thereby, misguided the Court.

5. The learned Additional Public Prosecutor as well as the learned advocate for the *de facto* complainant would further submit that as per the settled law of the land, inherent powers under Section 482 of the Code 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 applicants and hence, they requested that it is ultimately a matter of trial after which, the truth could be churned out and hence, these applications may not be entertained and they urged to be dismissed.

6. Heard and considered the submissions advanced by learned advocates for the parties and carefully gone through the material placed on record as well as the papers of investigation.

7. 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.”

7.1 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 465, 467, 468, 471, and 114 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. The FIR reveals that the accused created false and fabricated documents *viz.* Pedigree and Panchnama and thereby, mutated the land in question in the name of the present applicant No. 2.

7.2 To understand when these Sections (465, 467, 468, 471) of the IPC are legally attracted, the prosecution must satisfy specific, distinct components known as essential ingredients. Here is the structured breakdown of the necessary ingredients for each section as mentioned in the FIR:

7.2.1 Section 465: Punishment for Forgery: This is the basic offense of making a false document as defined under Sections 463 and 464. The ingredients are: i) creation of a false document or false electronic record (or part of one), and ii) intent must be to cause damage/injury to the public or any person, support a false claim/title, cause anyone to part with property, or commit fraud.



7.2.2 Section 467: Forgery of Valuable Security, Will, etc.: This is a severe, highly punishable form of forgery due to the nature of the document involved. The ingredients are: i) elements of basic forgery (Section 465) must be present; and ii) forged document must explicitly purports to be a valuable security, a will, an authority to adopt, or a document giving authority to receive money, principal, interest, or goods (*e.g.*, forging a land Sale Deed or a bank cheque).

7.2.3 Section 468: Forgery for Purpose of Cheating: The ingredients are: i) accused committed forgery, and ii) accused did so with the specific intent that the forged document would be used to cheat someone. However, the actual cheating does not need to be completed; the mere act of creating the fake document with the intent to cheat attracts this section.

7.2.4 Section 471: Using as Genuine a Forged Document: This section punishes the use of the fake document rather than its creation. The ingredient are: i) fraudulent or dishonest use of a document as genuine, and ii) the accused must have knowledge or a definitive reason to believe that the document was actually forged. It is attracted, if one knowingly hands a fake land entry or certificate to a government officer to claim an advantage, it triggers Section 471.

7.3 In the backdrop aforesaid, it is clear that to invoke the



aforesaid sections, ingredients of forgery are required to be satisfied. Accordingly, if the definition of Forgery, as provided in Section 463 of the IPC is seen, it states:

“463. Forgery. – Whoever makes any false document or false electronic record or part of a document or electronic record, with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.”

7.4. Since Section 464 of the IPC co-relates, the same is also extracted hereunder:

“464. Making a false document. – A person is said to make a false document or false electronic record –

First. – Who dishonestly or fraudulently –

- (a) makes, signs, seals or executes a document or part of a document;*
- (b) makes or transmits any electronic record or part of any electronic record;*
- (c) affixes any electronic signature on any electronic record;*
- (d) makes any mark denoting the execution of a document or the authenticity of the electronic signature, **with the intention of causing it to be believed that such document or part of document, electronic record or electronic signature was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed;***
or

Secondly. – Who without lawful authority, dishonestly or



fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with electronic signature either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly. – Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his electronic signature on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or electronic record or the nature of the alteration.”

7.5 It is well settled that a person does not commit forgery merely by executing a document asserting ownership or a right over a property, even if such claim is legally incorrect, disputed or ultimately found to be unsustainable. What is required is that the execution of the document itself must be fraudulent or dishonest. To constitute forgery, a person must dishonestly or fraudulently make, sign or execute a false document with the intention of causing it to be believed that the document was made, signed or executed by another person or under the authority of another person. A person signing a document in his own name, even while asserting an incorrect claim, does not thereby create a false document so as to attract the offence of forgery;

7.6 In the decision in *Sheila Sebastian v. R. Jawaharaj and Another etc.*, (2018) 7 SCC 581, more particularly, in paragraph 26 the Apex Court held:



"26. The definition of "false document" is a part of the definition of "forgery". Both must be read together. 'Forgery' and 'Fraud' are essentially matters of evidence which could be proved as a fact by direct evidence or by inferences drawn from proved facts. In the case in hand, there is no finding recorded by the trial Court that the respondents have made any false document or part of the document/record to execute mortgage deed under the guise of that 'false document'. Hence, neither respondent No.1 nor respondent No.2 can be held as makers of the forged documents. It is the imposter who can be said to have made the false document by committing forgery. In such an event the trial Court as well as appellate Court misguided themselves by convicting the accused. Therefore, the High Court has rightly acquitted the accused based on the settled legal position and we find no reason to interfere with the same."

7.7 In *Mohd. Ibrahim v. State of Bihar*, reported in (2009) 8 SCC 751, the Court held that, where a person executes a document claiming a property as his own, though such claim may ultimately be found to be incorrect, he is neither claiming to be someone else nor claiming to be authorized by another person. Therefore, execution of such a document, purporting to convey a property of which he is not the owner, does not amount to execution of a false document within the meaning of Section 464 IPC. If what is executed is not a false document, there is no forgery. If there is no forgery, the provisions of Sections 467 and 471 of the IPC would also not be attracted.

8. In the aforesaid backdrop, when the factual matrix of the case is tested against the established legal principles, the following aspects weigh decisively with this Court:



i) *the applicant No. 1 prepared a false Panchnama incorporating a fabricated Pedigree of late Dahiben, the grandmother of the de facto complainant;*

ii) *in the said Panchnama and Pedigree, late Vallabhbhai Hansjibhai was falsely depicted as having had only two daughters, namely Dahiben and Kamuben;*

iii) *in reality, Dahiben had three direct lineal descendants and Kamuben was not amongst them, establishing that Kamuben was deliberately and falsely projected as an heir of Dahiben;*

iv) *the Panchnama and Pedigree were attested by applicant No. 1 as a subscribing witness, despite his full knowledge that Dahiben had no daughter named Kamuben;*

v) *on the strength of the said fabricated Panchnama and Pedigree, Revenue Entry No. 1152 dated 19.01.1987 was mutated in the revenue records in favor of Sulochanaben, who was falsely portrayed as the daughter of Kamuben;*

vi) *in point of fact, Kamuben was the daughter of Dahiben's real brother, Jagjivanbhai. Furthermore, the documentary record reveals that Kamuben had no daughter named Sulochanaben, in whose favor the subject land was mutated under the aforesaid entry;*



vii) *the disputed mutation entry, depicting Kamuben as Dahiben's sister and Sulochanaben as Dahiben's niece (daughter of Kamuben), was effected in 1987 during the lifetime of Kamuben, who actually passed away much later, on 22.09.2005;*

viii) *indisputably, Sulochanaben (applicant No. 2), in whose favor the land was mutated in 1987, is the lawful wife of applicant No. 1 (Mahendrabhai Chandubhai Patel);*

ix) *the record further establishes that neither applicant No. 2 nor her husband (applicant No. 1) bear any blood relation to Dahiben. Thus, the Pedigree set out in the Panchnama prepared by applicant No. 1 is entirely fictitious, compounded by the false declaration that Kamuben was deceased in 1987 (when she survived until 22.09.2005) and showing applicant No. 2 as her daughter;*

x) *the material collected during investigation indicates that a stamp paper of Rs. 10/- was procured to execute the alleged Consent Deed of Dahiben. This was done despite the presence of Dahiben's living direct lineal descendants, aiming to transfer the land to Applicant No. 2 based on a fabricated pedigree that falsely designated Kamuben as Dahiben's sister and Applicant No. 2 as Kamuben's daughter;*

xi) *the material on record prima facie demonstrates that*



applicant No. 2 was set up as the sole beneficiary of the subject property through these fabricated familial links, despite possessing no lawful blood relationship or right of inheritance over Dahiben's estate;

xii) the de facto complainant has further alleged that the applicants have adopted a similar modus operandi to unlawfully acquire other land parcels as well;

xiii) while this Court is mindful not to conduct a mini-trial at the stage of considering a quashing application, a perusal of the investigation papers reveals that statements of independent witnesses – including subscribing witnesses to the Consent Deed, Panchnama, and Pedigree – have been recorded. These witnesses explicitly state that they executed the documents at the instance of applicant No. 1, thereby prima facie substantiating the prosecution's version;

xiv) the alleged Consent Deed dated 17.01.1987 bears only the thumb impression of Dahiben, establishing that she was illiterate and incapable of reading or writing, and thus prima facie unaware of the contents and import of the instrument. The said Consent Deed recites that applicant No. 2 (Sulochanaben) is her sister's daughter and entitled to a share in Block No. 72. In reality, Dahiben had no such sister, applicant No. 2 was not her niece and Dahiben's own living direct descendants were bypassed. Because,



Dahiben was illiterate and deceived into thumb-impressioning a documents containing false recitals, the Deed purports to be an authorized disposition of rights by a real person who never authorized those contents. This directly attracts Section 464 IPC (Clauses Firstly and Thirdly);

xv) the Panchnama invented a fictitious sisterly relationship between Dahiben and Kamuben and falsely positioned applicant No. 2 as Kamuben's daughter (Dahiben's niece) to engineer a non-existent right of inheritance. The Panchnama declared Kamuben as deceased in 1987 to facilitate the immediate mutation of Revenue Entry No. 1152, whereas, official records establish that Kamuben survived until 22.09.2005. Falsely depicting a living person as dead in a legal Pedigree to substitute them with a fake heir constitutes creating a false document in the name of/pertaining to a fictitious legal entity under Explanation 2 to Section 464 IPC;

xvi) regarding the argument on delay, while an unexplained delay in registering an FIR may be adverse to the prosecution, a plausible explanation on record negates such an objection. In the present case, the de facto complainant was unaware of the fraudulent mutation effected in applicant No. 2's favor through fabricated records. Immediately upon discovering the fraud during the suo motu revenue proceedings in 2011, the complainant lodged the FIR. Consequently, the authorities cited by the applicants offer



them no assistance;

xvii) Section 463 IPC defines 'Forgery' as the making of a false document with intent to cause damage or injury, support a claim or title, or commit fraud, with the creation of a 'false document' under Section 464 IPC being its foundational prerequisite. The applicants did not merely execute a deed asserting an unfounded claim of ownership in their own right. Rather, they actively fabricated a Pedigree (Pedhinama) and Panchnama, falsified a living person's legal timeline by projecting Kamuben as dead in 1987 when she survived until 2005, and created fictitious family relationships. Falsifying Pedigree to create non-existent legal entities and identities constitutes the making of a false document under Section 464 IPC, placing the act at the very core of forgery;

xviii) It is also pertinent to note that a previous application seeking quashment of the impugned FIR (Criminal Misc. Application No. 15732 of 2012) was unconditionally withdrawn by the applicants on 30.01.2013 to pursue remedies before the trial Court. A successive petition under Section 482 of the Code without any change in circumstances is impermissible.

8.1 From the above, it appears that there is ample material demonstrating criminality involved in the case on hand, attracting provisions of 465, 467, 468, 471, and 114 of the IPC, and hence, the case on hand does not fall into any of the parameters as laid down



in the case of *Bhajan Lal (supra)*.

9. In view of aforesaid discussion, this application fails and is hereby dismissed. Rule is discharged. Interim relief is vacated, forthwith.

9.1 It goes without saying that above observations are made for deciding the present application only, which shall have no bearing on any other litigation between the parties and the same shall be decided on its own merits.

[P. M. Raval, J.]

Further Order:

After the above judgment and order is passed, learned senior advocate for the applicants requests to extend the interim relief which was granted earlier so as to enable the applicants to move the Apex Court challenging the aforesaid judgment and order.

Considering the fact that the FIR is of 2012 and this matter is of 2015 wherein, stay was granted on 15.04.2015 which is operative till date, in the interest of justice, as the applicants want to move the Apex Court against the present judgment and order, the request is acceded to. Accordingly, the interim relief granted earlier to continue for a period of **08 (eight)** weeks from today.

[P. M. Raval, J.]

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