

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 4123 of 2026**

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DEEP JAYESHBHAI INDRAVADAN SONI(DEEP JAYESHBHAI SONI AS
MENTIONED IN FIR)
Versus
STATE OF GUJARAT

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Appearance:

MR DEVARSH P PANDYA(12986) for the Applicant(s) No. 1
MR. MEET THAKKAR, APP for the Respondent(s) No. 1

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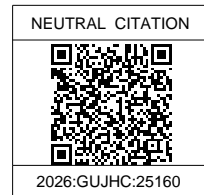
CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY**Date : 07/04/2026****ORAL ORDER**

1. By filing the present petition under Articles 226 and 227 of the Constitution of India, the Petitioner has prayed for the following reliefs:

“a. To allow the present Petition.

b. To quashing and setting aside of order dated 13.02.2026 cumulatively passed below Exhibit 72 and Exhibit 73 by the Ld. 3rd Addl. Sessions Judge, Bharuch in Sessions Case No. 91 of 2024 and / or all proceedings subsequent thereto (ANNEXURE-A) and further be pleased to expunge / delete the objected portion of the evidence;

c. Pending admission, hearing and final disposal of this application, to stay the operation of order dated 13.02.2026 cumulatively passed below Exhibit 72 and Exhibit 73 by the Ld. 3rd Addl. Sessions Judge, Bharuch in Sessions Case No. 91 of 2024 and / or all proceedings subsequent thereto (ANNEXURE-A) and / or further be pleased to stay the proceedings of Sessions Case No.91 of 2024 currently Pending before the Ld. 3rd Addl. Sessions Judge, Bharuch;



d. To pass any other and further orders as this Hon'ble Court may deem fit and proper."

2. The facts and circumstances giving rise to the petition are such that the petitioner herein is facing a trial for the offences punishable under Sections 354(A), 376 of the Indian Penal Code and other allied offences. During the course of trial of the said offences, being Sessions Case No. 91 of 2014 before the learned 3rd Additional Sessions Judge, Bharuch, the examination-in-chief of the victim was being recorded on 29.12.2025. During her examination-in-chief, the public prosecutor had put a question to the victim, "what happened thereafter", to which she replied, "Deep also came to his house at Dandiabazaar, where they sat together and Deep insisted". The public prosecutor put another question, "insisted for what?", to which the victim had replied, "for physical relations". Thereafter, the public prosecutor asked the victim, "what did you tell him?".

2.1 An objection was taken to the last question referred to herein above, on behalf of the Petitioner, contending that the question sought to be asked by the public prosecutor was a leading question and a leading question cannot be allowed to be asked by the prosecution to a witness.

2.2 The learned Sessions Judge had passed the order on the objections raised by the petitioner that the decision as regards the admissibility of the question shall be decided at the time of final disposal of the case.

2.3 Being aggrieved by the same, the petitioner had approached this court by filing Special Criminal Application No. 1736 of 2026. This court, vide order dated 6.02.2026 had asked the learned trial court to decide the aspect of admissibility of the question within a period of 7 days from the date of receipt of the order, in view of the judgment of the Apex Court in case of Criminal Trials Guidelines regarding Inadequacies and Deficiencies v. State of Andhra



Pradesh and Others. Pursuant to the order passed by this court, the learned Sessions court has disallowed the objection raised on behalf of the petitioner vide order dated 13.02.2026.

2.4 Being aggrieved by the said order, the petitioner has approached this court.

3. Heard learned Advocate Mr. Devarsh Pandya appearing for the petitioner and learned APP for the Respondent – State.

4. Learned Advocate Mr. Pandya submitted that the question which was sought to be asked by the public prosecutor to the victim, amounts to a leading question and, in view of the provisions of the Evidence Act, more particularly Sections 141, 142 and 145, the prosecution cannot be allowed to ask a leading question to a witness. He further submitted that, by putting the question referred to herein above, the prosecution wanted to elicit a reply, desired by it, from the witness, which is not allowed. The learned Sessions Court, while disallowing the objections raised by the petitioner, has not given any cogent reasons for its decision. It has only reproduced the relevant part of the deposition, the objections raised on behalf of the petitioner, and the order passed by this court in its impugned order; which indicates a complete non-application of mind on part of the learned Sessions Court. He therefore submitted to allow the present petition and quash and set aside the order impugned in the petition.

4.1 Learned Advocate has sought to rely on the judgment of the Apex Court in case of Varkey Joseph Versus State of Kerala, reported in AIR 1993 SC 1892.

5. Learned APP has opposed the present petition contending that the present petition is nothing but an abuse of process of law and a tactics to delay



the trial. The questions which were put by the prosecution to the witness is not a leading question, and therefore, the objections raised on behalf of the petitioner has rightly been discarded by the learned Sessions Court. He therefore submitted to dismiss the present petition.

6. The perusal of the deposition of the victim indicates that, it was not recorded in the form of Questions & Answers. In reply to the questions put to her by the public prosecutor, the victim had replied that Deep, i.e. the petitioner herein, had promised her of marriage and had established physical relations with her, she was knowing Deep, because he was studying in her college in third year B.Sc. Thereafter, she was asked, “as to what had happened thereafter”, to which, she had replied that, “Deep had also gone to her house, where they were sitting together, where, Deep insisted”. Thereafter, the public prosecutor asked the victim, “he insisted for what?”, to which she replied, “he insisted for physical relations”. After giving this reply, she had stopped, and therefore, the public prosecutor had put the next question to her about her reply to the petitioner. It was only after the victim had given her reply that the question was objected by the petitioner.

6.1 This court is at a loss to understand as to how the question put by the public prosecutor to the victim, can be said to be a leading question. The reply to the question could be anything. The answer favouring prosecution was not the only possible answer and this fact was also known to the defence and therefore, the objection was raised only after the witness had replied to the question. Had the question been, “as to whether she agreed for it or not”, then it could, arguably, be said to be a leading question, as the question itself would have prompted the reply. The question, which is put by the public prosecutor to the victim, cannot be said to be of a nature, which would enable the witness to give the evidence, which the public prosecutor wishes to elicit from the witness.



7. As noted herein above, the reply to the question put by the public prosecutor to the victim could be anything. The Apex Court in its judgment in case of Varkey Joseph (supra) has held that the question shall not be put to enable the witness to give evidence which the prosecutor wishes to elicit from the witness nor the prosecutor shall put into witness's mouth the words which he hoped that the witness will utter nor in any other way suggest to him the answer which it is desired that the witness would give.

7.1 No such eventuality appears to be arising out of the question put by the public prosecutor to the victim. Hence, the judgment cited on behalf of the petitioner renders no assistance to the petitioner.

7.2 Learned APP appears to be right in contending that the present petition appears to be a tactics to further delay the trial of the offence.

8. Having regard to these aspects, no case is made out. The petition is dismissed.

(M. R. MENGDEY,J)

J.N.W / 19