

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 13335 of 2026**

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APPLICANT NO 1 & ANR.
Versus
STATE OF GUJARAT & ORS.

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Appearance:

SENIOR ADVOCATE MR.MITUL SHELAT with MR HITESH M
SABHNANI(10731) for the Applicant(s) No. 1,2
MR.JAY MEHTA, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MRS. JUSTICE M. K. THAKKER**Date : 09/09/2026****ORAL ORDER**

1. Draft amendment is allowed. Amendment be carried out forthwith.
2. Learned senior advocate Mr.Mitul Shelat has submitted that the impugned FIR is filed on 06.09.2026 against unknown person alleging that the friend of the complainant was kidnapped by unknown persons.
 - 2.1. Learned senior advocate Mr.Mitul Shelat has submitted that infact the abductee was not kidnapped but, she willingly joined the company of her husband. However, as the family members of the abductee dislike the relationship of the abductee with her husband, only with a view to harass and torture the husband of abductee, the FIR is filed. It is submitted by learned

senior advocate Mr.Mitul Shelat that as on date also there is threat to the life of the applicants and in that background, they are required to be protected.

- 2.2. It is submitted by learned senior advocate Mr.Mitul Shelat previously Habeas Corpus petition was filed wherein, the abductee was produced by the family members and under their pressure, she refused to join the company of her husband-applicant no.1. It is further submitted that she is aged 24 years and willingly staying with the applicant no.1 and in that background the impugned FIR is nothing but abuse of process of law.
3. Learned APP Mr.Jay Mehta has placed on record the report submitted by the Investigating Officer submitting that the FIR is recently filed as on on date, the applicant no.1 and 2 are untraceable and formal protection be given to the applicant on filing such necessary application.
4. This Court has interacted with the applicants through video conference more particularly, the applicant no.1 whereby she stated that she is willingly staying with her husband and she has not taken this step under any pressure.

5. This Court has referred the decision of the Apex Court in the case of Lata Singh Vs State of Uttar Pradesh reported in 2006 (0) AIJEL-SC 37515 wherein it is held as under:

4. This case reveals a shocking state of affairs. There is no dispute that the petitioner is a major and was at all relevant times a major. Hence she is free to marry anyone she likes or live with anyone she likes. There is no bar to an inter-caste marriage under the Hindu Marriage Act or any other law. Hence, we cannot see what offence was committed by the petitioner, her husband or her husband's relatives.

5. We are of the opinion that no offence was committed by any of the accused and the whole criminal case in question is an abuse of the process of the court as well as of the administrative machinery at the instance of the petitioner's brothers who were only furious because the petitioner married outside her caste. We are distressed to note that instead of taking action against the petitioner's brothers for their unlawful and high-handed acts (details of which have been set out above) the police has instead proceeded against the petitioner's husband and his relatives.

6. Since several such instances are coming to our knowledge of harassment, threats and violence against young men and women who marry outside their caste, we feel it necessary to make some general comments on the matter. The nation is passing through a crucial transitional period in our history, and this Court cannot remain silent in matters of great public concern, such as the present one.

7. The caste system is a curse on the nation and the sooner it is destroyed the better. In fact, it is dividing the nation at a time when we have to be united to face the challenges before the nation

unitedly. Hence, inter-caste marriages are in fact in the national interest as they will result in destroying the caste system. However, disturbing news are coming from several parts of the country that young men and women who undergo inter-caste marriage, are threatened with violence, or violence is actually committed on them. In our opinion, such acts of violence or threats or harassment are wholly illegal and those who commit them must be severely punished. This is a free and democratic country, and once a person becomes a major he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve of such inter-caste or inter-religious marriage the maximum they can do is that they can cut off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or inter-religious marriage. We, therefore, direct that the administration/police authorities throughout the country will see to it that if any boy or girl who is a major undergoes inter-caste or inter-religious marriage with a woman or man who is a major, the couple are not harassed by any one nor subjected to threats or acts of violence, and any one who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law.

8. We sometimes hear of 'honour' killings of such persons who undergo inter-caste or inter-religious marriage of their own free will. There is nothing honourable in such killings, and in fact they are nothing but barbaric and shameful acts of murder committed by brutal, feudal minded persons who deserve harsh punishment. Only in this way can we stamp out such acts of barbarism.

9. In the circumstances, the writ petition is allowed. The proceedings

in Sessions Trial No. 1201/2001 titled State of U.P. V/s. Sangita Gupta and Ors. arising out of FIR No. 336/2000 registered at Police Station Sarojini Nagar, Lucknow and pending in the Fast Track Court V, Lucknow are quashed. The warrants against the accused are also quashed. The police at all the concerned places should ensure that neither the petitioner nor her husband nor any relatives of the petitioner's husband are harassed or threatened nor any acts of violence are committed against them. If anybody is found doing so, he should be proceeded against sternly in accordance with law, by the authorities concerned.

6. The said principle is reiterated in the decision rendered by the Apex Court in the case of ***Shakti Vahini Vs Union of India & Ors. Reported in (2018) 7 SCC 192.*** The relevant paragraphs are reproduced hereinbelow:

55.1. Preventive steps

55.1.1. The State Governments should forthwith identify districts, sub divisions and/or villages where instances of honour killing or assembly of khap panchayats have been reported in the recent past, e.g., in the last five years

55.1.2 The Secretary, Home Department of the States concerned shall issue directives/advisories to the Superintendent of Police of the districts concerned for ensuring that the officer in charge of the police stations of the identified areas are extra cautious if any instance of inter-caste or inter-religious marriage within their jurisdiction comes to their notice.

55.1.3. If information about any proposed gathering of a khap panchayat Administration, he shall forthwith inform his immediate

superior officer and comes to the knowledge of any police officer or any officer of the District and Superintendent of Police. also simultaneously intimate the jurisdictional Deputy Superintendent of Police

55.1.4. On receiving such information, the Deputy Superintendent of Police (or such senior police officer as identified by the State Governments with interact with the the khap panchayat and impress and to eschew from going ahead with such c gathering is not permissible in law an a meeting. Additionally, he should issue appropriate directions to the officer in charge of the jurisdictional police station to be vigilant and, if necessary, to deploy adequate police force for prevention of assembly of the proposed gathering.

55.1.5. Despite taking such measures, if the meeting is conducted, the Deputy Superintendent of Police shall personally remain present during the d meeting and impress upon the assembly that no decision can be taken to cause any harm to the couple or the family members of the couple, failing which each one participating in the meeting besides the organisers would be personally liable for criminal prosecution. He shall also ensure that video recording of the discussion and participation of the members of the assembly is done on the basis of which the law-enforcing machinery can resort to suitable action.

55.1.6. If the Deputy Superintendent of Police, after interaction with the members of the khap panchayat, has reason to believe that the gathering cannot be prevented and/or is likely to cause harm to the couple or members of their family, he shall forthwith submit a proposal to the District Magistrate/Sub-Divisional Magistrate of the District/Competent Authority of the area concerned for issuing orders to take preventive steps under CrPC, including by invoking prohibitory orders under Section 144 CrPC and also by causing arrest

of the participants in the assembly under Section 151 CrPC.

55.1.7. The Home Department of the Government of India must take initiative and work in coordination with the State Governments for sensitising the law enforcement agencies and by involving all the stake holders to g identify the measures for prevention of such violence and to implement the constitutional goal of social justice and the rule of law.

55.1.8. There should be an institutional machinery with the necessary coordination of all the stakeholders. The different State Governments and the Centre ought to work on sensitisation of the law enforcement agencies to mandate social initiatives and awareness to curb such violence.

55.2. Remedial measures

55.2.1. Despite the preventive measures taken by the State Police, if it comes to the notice of the local police that the khap panchavat has taken place and it has passed any diktat to take action against a couple/family of an inter-caste or inter-religious marriage (or any other marriage which does not meet their acceptance), the jurisdictional police official shall cause to immediately lodge an FIR under the appropriate provision of Penal Code including Sections 141, 143, 503 read with Section 506 IPC.

55.2.2. Upon registration of FIR, intimation shall be simultaneously given to the Superintendent of Police/Deputy Superintendent of Police who, in turn, shall ensure that effective investigation of the crime is logical end with promptitude.

55.2.3. Additionally, immediate steps should be taken to provide security to the couple/family and, if necessary, to remove them to a safe house : perception. The State Government may consider of establishing a safe house within the same district or elsewhere keeping in mind their safety and threat at each District Headquarter

for that purpose. Such safe houses can cater to accommodate:

(i) opposed by their families/local community/khaps, and relationship is being

(ii) young married couples (of an inter-caste or inter-religious or any other marriage being opposed by their families/local community/khaps). Such safe houses may be placed under the supervision of the jurisdictional District Magistrate and Superintendent of Police.

55.2.4. The District Magistrate/Superintendent of Police must deal with the complaint regarding threat administered to such couple/family with utmost sensitivity. It should be first ascertained whether the bachelor-bachelorette are capable adults. Thereafter, if necessary, they may be provided logistical support for solemnising their marriage and/or for being duly registered under police protection, if they so desire. After the marriage, if the couple so desire, they can be provided accommodation on payment of nominal charges in the safe house initially for a period of one month to be extended on monthly basis but 1 not exceeding one year in aggregate, depending on their threat assessment on case-to-case basis.

55.2.5. The initial inquiry regarding the complaint received from the couple (bachelor-bachelorette or a young married couple) or upon receiving information from an independent source that the relationship/marriage of such couple is opposed by their family members/local community/khaps shall be entrusted by the District Magistrate/Superintendent of Police to an officer of the rank of Additional Superintendent of Police. He shall conduct a preliminary inquiry and ascertain the authenticity, nature and gravity of threat perception. On being satisfied as to the authenticity of such threats, he shall immediately submit a report to the Superintendent of Police in not later than one week.

55.2.6. *The District Superintendent of Police, upon receipt of such report, shall direct the Deputy Superintendent of Police in charge of the sub-division concerned to cause to register an FIR against the persons threatening couple(s) and, if necessary, invoke Section 151 CrPC. Additionally, the Deputy Superintendent of Police shall personally supervise the progress of investigation and ensure that the same is completed and taken to its logical end with promptitude. In the course of investigation, the persons concerned shall be booked without any exception including the members who have participated in the assembly. If the involvement of the members of khap panchavat comes to the fore, they shall also be charged for the offence of conspiracy or abetment. as the case may be.*

55.3. Punitive measures

55.3.1. *Any failure by either the police or district officer/officials to comply with the aforesaid directions shall be considered as an act of deliberate negligence and/or misconduct for which departmental action must be taken under the service rules. The departmental action shall be initiated and taken to its logical end, preferably not exceeding six months, by the authority of the first instance.*

55.3.2. *In terms of the ruling of this Court in Arumugam Servai, the States are directed to take disciplinary action against the officials concerned if it is found that:*

(i) such official(s) did not prevent the incident, despite having prior knowledge of it, or

(ii) where the incident had already occurred, such official(s) did not promptly apprehend and institute criminal proceedings against the culprits.

55.3.3. *The State Governments shall create Special Cells in every district comprising of the Superintendent of Police, the District Social Welfare Officer and District Adi-Dravidar Welfare Officer to receive*

petitions/complaints of harassment of and threat to couples of inter-caste marriage.

55.3.4. These Special Cells shall create a 24-hour helpline to receive and register such complaints and to provide necessary assistance/advice and protection to the couple.

7. In view of above decision in the opinion of this Court, when the applicants are major married couple and marriage may not like to the relatives of the applicant no.1 however, mere disliking of the relationship cannot be used to harass or threaten the applicants by using the police machinery. In that background, let notice be issued making it returnable on 05.11.2026. Learned APP Mr.Jay Mehta waives service of notice on behalf of respondent-State.
8. Ad-Interim relief in terms of para 8.(D) and 8.(E) is granted.
9. At the same time, as per the decision rendered in the above case, the Superintendent of Police, Mahesana is directed to ensure that neither the applicants or the relatives of the applicants no.2 are harassed or threatened nor any act of violence are committed against them. If anybody is found doing so they shall proceeded against sternly in accordance with law, by authorities

concerned.

10. The applicants are directed to give the application to the concerned Superintendent of Police who shall ensure to keep whereabouts of the applicant undisclosed and to see that no harm is caused to the couple or the relatives of the applicants no.2.
11. Direct service today is permitted.

ARCHANA S. PILLAI

(M. K. THAKKER,J)