

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 8920 of 2023****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE J. L. ODEDRA**

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Approved for Reporting	Yes	No
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VIJAYBHAI JEYSINGBHAI VASAVA

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MS TASNIM A ZABUAWALA(10756) for the Applicant(s) No. 1

MR APURVA R KAPADIA(5012) for the Respondent(s) No. 2

MR DHAWAN JAYSWAL, ADDL.PUBLIC PROSECUTOR for the
Respondent(s) No. 1

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CORAM:HONOURABLE MR.JUSTICE J. L. ODEDRA**Date : 09/09/2026****ORAL JUDGMENT**

1. Rule returnable forthwith. Mr. Dhawan Jayswal, learned APP waives service of notice of rule for and on behalf of Respondent No.1. Mr. Apurva R. Kapadia, learned advocate waives service of notice of rule for and on behalf of respondent No.2.
2. Present proceedings have been initiated seeking following reliefs:-

“6. The applicant most humbly therefore, prays that:

A.YOUR LORDSHIPS MAY BE PLEASED TO Admit and

Allow this application;

B.YOUR LORDSHIPS MAY BE PLEASED TO quash and set aside order dt.06.02.2023 passed by the Learned District Sessions Judge Narmada at Rajpipla in Criminal Revision No.34 of 2022 (Annexure-A); in interest of Justice.

C.YOUR LORDSHIPS MAY BE PLEASED TO quashing and setting aside the impugned order passed by the Ld Judicial Magistrate at Dediapada in Enquiry No.02 of 2022.

D. YOUR LORDSHIPS MAY BE PLEASED TO allow the application and give the direction to the Learned Judicial Magistrate at Dediapada to restore the application Enquiry No.02 of 2022 and proceed further; in interest of justice.

E.Be pleased to grant any other relief/s as may deem fit proper, in the interest of justice.”

3. It appears that the petitioner herein had preferred a complaint under Section 500 of the Indian Penal Code. It is his case that the respondent No.2 herein had preferred certain application (hereinafter, “**the original application**”) before the police station in respect of certain land at Compartment No.396, Plot No.2 Hectare 00, Are 60 sq.meter in District: Narmada, Taluka: Dediapada, Village: Bandishervan.
4. It is the case of the petitioner that the land is a forest land and that in respect of the said land, respondent No.2 had filed the original application before the police. Subsequently, in social media, i.e. Facebook, an individual, by the name of Shri Vasava Champak, had

reported that such an application was filed before the police alleging that the standing crops on the said land had been grazed by the cattle at the instance of the petitioner herein and his cronies. Similarly, on his Facebook page, the said Shri Vasava Champak had uploaded the application filed by respondent No.2 together with certain photographs. It was the case of the petitioner that the said Shri Vasava Champak is putting the said information on his Facebook page at the instance of respondent No.2 and is defaming the petitioner for no reason.

5. It is the case of the petitioner that he is not at all connected with any other criminal acts pertaining to the land in question. He has also adduced before the learned Additional Chief Judicial Magistrate at Dediapada in Enquiry Case No.02 of 2022, the newspaper cuttings of Gujarat Samachar (Vadodara Edition) and Sandesh (Bharuch-Narmada Edition), alleging that in the said newspapers also, at the instance of respondent No.2, such malicious defamatory news items have been published. It may be noted that in the complaint before the learned Additional Chief Judicial Magistrate in respect of which

Enquiry No.2 of 2022 was registered, the petitioner had prayed that offence under Section 500 be registered against Rajeshbhai Ratilal Vasava, respondent No.2 herein.

6. Pursuant to the filing of the concerned complaint and initiation of enquiry, the verification of the complainant had been recorded by the Court. Pursuant to the verification recorded of the present petitioner, the learned Additional Chief Judicial Magistrate, Dediapada was pleased to dismiss the complaint under Section 203 of the Code of Criminal Procedure. Whilst so dismissing, the learned Additional Chief Judicial Magistrate was pleased to record that the original application against the present petitioner, said to be false, has not been adduced on record by the petitioner and, moreover, such allegations being false or true, is the matter of investigation. Insofar as, the newspaper reports were concerned, it was held by the learned Additional Chief Judicial Magistrate that in the said news items, even the name of the present petitioner is not mentioned. That apart, the Court recorded that as per the record it transpired that there was a Regular Civil Suit No.67 of 2018 in respect of the concerned land by

respondent No.2 and others. In view of the foregoing, the complaint under Section 203 of the Code of Criminal Procedure stood dismissed.

7. Against the said order, the present petitioner preferred Revision Application, which too met the same fate. The revisional Court also recorded that the so-called false application, (i.e., the original application) by respondent No.2 itself is not on record and that whether the said application is true or false cannot be determined at this stage. Moreover, whether the newspaper items were at the instance of the respondent or otherwise has not been *prima facie* proved by the petitioner. The revisional Court also indicated that the Regular Civil Suit No.67 of 2018 is pending before the competent Court. Ultimately, the revisional Court indicated that the ingredients of Section 500 were not satisfied and, therefore, the revisional Court was not inclined to interfere in the order passed by the learned Additional Chief Judicial Magistrate, Dediapada.
8. Aggrieved by the said orders, the present Special Criminal Application has been filed.
9. Learned advocate for the petitioner vehemently submitted that there was no way that the application filed by

respondent No.2 could have been procured by Shri Vasava Champak and he subsequently uploaded the same on his Facebook page. He also submitted that the manner in which the news, as regards the filing of the application by respondent No.2 in respect of the subject land alleging that the standing crops on the concerned piece of land were grazed at the instance of the complainant and his cronies was circulated on social media (Facebook), is derogatory in nature. It was also submitted that even the news items, which were published in the Gujarat Samachar (Vadodara Edition) and Sandesh (Bharuch-Narmada Edition), would indicate that respondent No.2 is ensuring that the petitioner is defamed to the maximum possible extent and certain political party is favoured in the election.

10. On the other hand, learned APP appearing on behalf of the State vehemently objected to the petition. It was submitted that no case has been made out by the petitioner, as is apparent from the record.
11. Learned advocate for respondent No.2 has supported the impugned orders. He also submitted that Section 499 of the IPC itself makes an exception whereby accusation preferred in good faith to authorized person does not

amount to defamation. It was submitted that as is the case here, respondent No.2 had preferred an application before the police and such an application does not amount to defaming anyone especially if it is preferred in good faith against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation. It was submitted that, therefore, respondent No.2 cannot be prosecuted merely because he has filed an application. Insofar as the copy of the application which was filed on Facebook, it was submitted that the same is not to the knowledge of respondent No.2.

12. It was also submitted that, similarly, the news items also were not at the instance of respondent No.2. It was submitted that, therefore, the complaint against respondent No.2 in respect of the aforesaid events is not sustainable. It was further submitted that it is the fact that the Civil proceedings at the instance of respondent No.2 and others were also pending in respect of the subject land and, therefore too, the allegation that the land does not belong to respondent no.2 and yet he is agitating for the said land is wrong. Accordingly, it was submitted that the orders passed by the learned Chief Judicial Magistrate,

Dediyapada and duly confirmed by the learned Sessions Judge, Narmada at Rajpipala in Criminal Revision Application No.34 of 2022 do not suffer from any infirmity. Accordingly, it was urged that the said orders may not be interfered with.

13. Having heard Ms. Tasnim A. Zabuawala for the petitioner, Mr. Apurva R. Kapadia for respondent No.2 and Mr. Dhawan Jayswal, learned APP for respondent No.1, this Court proceeds to decide the issues in terms appearing hereinafter.
14. Clearly, the alleged application (i.e., the original application) made by respondent No.2 in respect of the subject land was not adduced on record by the petitioner herein. It was also not adduced on record even in the revisional proceedings. Therefore, the very edifice, on which the petitioner claims that respondent No.2 has defamed, is missing. Similarly, the individual Shri Vasava Champak, who is running the social media account (Facebook), by circulating the aforesaid application allegedly filed by respondent No.2, as also certain photographs, has not even been impleaded by the petitioner in the Magisterial Court. Lastly, from the newspaper items, it transpires that the

name of the person behind grazing of the subject lands, is not mentioned. In short, there is no merit in the said application and as a result, two Courts have given a finding that the petitioner does not make out a case for investigating the allegations alleged by the petitioner before the Magisterial Court or any revisional proceedings.

15. Lastly, assuming that there was an application, then too, merely because the person files an application to any of those, who have lawful authority over that person with respect to the subject matter of accusation, the same does not amount to defamation in terms of Exception 8. Resultantly, no direction can be given to revive Enquiry No.02 of 2022 to the Court of learned Additional Chief Judicial Magistrate, Dediypada.
16. Consequently, the present proceedings, being devoid of merits, are ordered to be dismissed.
17. The present petition stands disposed of as aforesaid. Rule is discharged.

SUDHIR

(J. L. ODEDRA, J)