

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 14275 of 2025

FOR APPROVAL AND SIGNATURE:

HONOURABLE MRS. JUSTICE M. K. THAKKER

Approved for Reporting

Yes

No

✓

Versus
STATE OF GUJARAT & ANR.

Appearance:

KARAN Y VYAS(8539) for the Applicant(s) No. 1

NEEL B DAVE(9651) for the Applicant(s) No. 1

MS RAKSHA S DIKSHIT(5568) for the Respondent(s) No. 2

MR.JAY MEHTA, APP for the Respondent(s) No. 1

CORAM:HONOURABLE MRS. JUSTICE M. K. THAKKER

Date : 08/10/2026

JUDGMENT

1. Rule, returnable forthwith. Learned APP waives service of notice of Rule on behalf of respondent-State.
2. This petition is filed for following reliefs:

A. This Honourable Court may be pleased to issue a Writ of Certiorari or any appropriate writ, order or direction, Judgment and Order dated 30/07/2025 passed by Ld. Principal Judge, Family Court, Gandhinagar in Exh-24 in Cri. Misc. Application No. 1074/2024(Old Case No. 2097/2023) which is at Annexure-A of the petition and further be pleased to allow summoning of witness named [REDACTED]

B. Pending admission, hearing and final disposal of this petition, this Honourable Court may be pleased to stay the Proceedings of Ld.

Family Court which are pending before Ld. Principal Judge, Family Court, Gandhinagar in Cri. Misc. Application No. 1074/2024(Old Case No. 2097/2023).

C. Be pleased to grant ad-interim relief in terms of Para 9(B).

D. This Honorable Court may be pleased to grant such other and further relief/s that may be deemed fit and proper in the interest of justice.

3. Heard learned advocate Mr.Karan Vyas for the petitioner and learned advocate Ms.Raksha Dikshit for the respondent no.2.
4. It is submitted by learned advocate Mr.Karan Vyas that application below Exh.24 is filed seeking permission to examine the child as the witness to prove the adultery of the wife of the petitioner. It is submitted by learned advocate Mr.Karan Vyas that the age of the child is around 16 years and he is staying with the present petitioner and was the eye witness of the illicit relation of the wife of the petitioner with one Gunvantji Somaji Thakor. It is submitted that, through the evidence of the child, the petitioner wants to prove the defence of adultery of the wife and therefore, examination of the child is required to be done to meet the ends of justice. Therefore it is prayed to allow this petition.

- 4.1. Learned advocate Ms.Raksha Dikshit submits that the

child is 16 years old and is staying with the present petitioner and therefore, the learned Court has rightly rejected the application filed by the petitioner on the ground that it would have long effect on the mind of the child on his personal and educational future. It is submitted by learned advocate Ms.Dikshit that in the background of that scenario, no error has been committed by learned Family Court in dismissing the application.

5. Having considered the submissions made by learned advocates for the respective parties and on referring the averments made on the application as well as the reasons assigned by the learned Court in the impugned order, it is not in dispute that the age of the child is 16 years and as per the allegations made by the petitioner, he is the eye witness to the illicit relation of the wife of the petitioner with Gunvantji Somaji Thakor. It also emerges from the record that due to the said illicit relation, as per the contention made by the petitioner, the community people were gathered and they had instructed said Gunvantji Somaji Thakor not to enter the village for a period of six months. The child in question,

who is studying in standard IX, if allowed to be a witness in the battle of the husband and wife, would gravely affect the mind of the child. A child cannot be used as a pawn to show that mother of the child was living in adultery as it is always open for the husband to prove it through other evidence. Further, the interest of the child should be given preliminary consideration in the battle between husband and wife. In addition to that, in the mind of a child, the reputation and dignity of the mother is required to be protected. In that background, in the opinion of this Court, no error is committed by the learned Court in disallowing the application.

5.1. Additionally, so far as the defence of adultery is concerned, there is an agreement executed in presence of the village people, which is placed on record. Therefore also, the impugned order does not require any interference and present petition deserves to be dismissed.

6. Resultantly, this petition is dismissed. Rule is discharged.

ARCHANA S. PILLAI

(M. K. THAKKER,J)