IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE FIR/ORDER) NO. 15570 of 2022

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE P. M. RAVAL

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Approved for Reporting	Yes	No

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MEHUL MANSUKHBHAI BOGHARA
Versus
STATE OF GUJARAT & ANR.

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Appearance:
S M KIKANI(7596) for the Applicant(s) No. 1
NOTICE SERVED for the Respondent(s) No. 2
K M ANTANI APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR.JUSTICE P. M. RAVAL**

Date : 14/10/2026

ORAL JUDGMENT

1. By way of the present petition filed under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.), the Petitioner prays for quashing and setting aside First Information Report (FIR) bearing **C.R. No. 11210008221302/2022** registered with Sarthana Police Station, Surat City, for offences punishable under Sections 332, 353, 385, and 427 of the Indian Penal Code, 1860 (IPC), as well as Sections 3(1)(r) and 3(1)(u) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Facts as narrated in the FIR are as follows:

"Date: 18/08/2022

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My name is **Arvindbhai Edaljibhai Gamit**, ASI (Assistant Sub-Inspector), Buckle No. 2735, Age: 54 years, Occupation: Service, Residing at: 132, Yogeshwar Park, Dindoli, Surat. Native Place: Village Velchha, Post: Chhindiya, Taluka: Vyara, District: Tapi. Mobile No.: 7016219840.

I am personally appearing to state and lodge my complaint as follows: I reside at the above address with my family. I have been serving as an Assistant Sub-Inspector (ASI) at Region-01 Traffic Branch, Surat, for approximately the last one and a half years. Currently, I am posted on duty regulating traffic and patrolling in the Sarthana area.

About 15 to 20 days ago, while we were discharging our duties near the Simada Canal, a person came up to us, introduced himself as **Advocate Mehul Boghra**, and asked us, "*What is your name? Where do you reside?*" Upon being asked, I informed him that my name is Arvindbhai Edaljibhai Gamit and that my native place is Vyara. He then asked, "*Are you from the Gamit Adivasi community?*" to which I replied "Yes." Thereafter, he recorded a video of us on his mobile phone and left. Therefore, we know this Mehul Boghra well.

Today, while I, along with Lok Rakshak Hareshbhai Naranbhai (Buckle No. 3363), were performing traffic enforcement duties on the Lasana Main Road between around 10:30 AM and 11:15 AM, Advocate Mehul Boghra arrived. He went up to TRB (Traffic Brigade) Supervisor Sajanbhai, spoke with him, and then approached us, saying: "*You damn Adivasis and hill-dwellers have posed as police officers, wrongly harassing and looting people!*" Saying this, he walked a short distance ahead.

Thereafter, TRB Supervisor Sajanbhai came to us and informed us that about a month ago, while he was performing his duties,

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Mehul Boghra had recorded a video of him as well. He threatened to make that video viral unless Sajanbhai paid him ₹1,000 per day (amounting to ₹30,000 per month). Mehul had also claimed that he had gotten several TRB personnel dismissed by making such videos viral, and warned that if Sajanbhai did not comply and pay ₹30,000 monthly, he would get him dismissed as well. Sajanbhai informed me that as one month had completed today, Mehul had come to collect the ₹30,000.

Meanwhile, Mehul Boghra again walked towards us, recording a video of us on his mobile phone. When Sajanbhai asked him not to record, he continued doing so, leading to a verbal heated argument and a fight between them. During this, Mehul Boghra tore the shirt pocket of Sajanbhai's uniform, broke his shoulder badge, and snapped off the buttons. As a scuffle and physical assault ensued between them, I rushed over to prevent further altercation. Thereafter, Mehul Boghra's associates arrived and were taking him away.

As my colleagues and I were preparing to resume our duties, commotion broke out again. I saw Sajanbhai striking with a wooden stick. I ran towards them shouting at Sajanbhai not to hit, but before that, Sajanbhai had already struck Mehul two or three times. Mehul then left with his associates.

Therefore, this Mehul Boghra insulted me using casteist slurs by saying, "*You damn Adivasis and hill-dwellers have posed as police officers, wrongly harassing and looting people!*", demanded money at the rate of ₹1,000 per day (totaling ₹30,000 per month) from our TRB Supervisor Sajanbhai, recorded videos of us on his phone while we were discharging our lawful duties in order to make them viral, obstructed us in the performance of our official duties, assaulted the TRB worker with punches and blows,

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tore the pocket of his uniform shirt, and broke his shoulder badge and buttons.
I am lodging this complaint for appropriate legal action against him for committing these offenses. My witnesses include the police personnel present with me and those identified during the police investigation.
This is my complaint, dictated as per my memory, and it is true and correct."

3. The Petitioner submits that he is a lawyer and social activist who went to Lasana Main Road at around 11:40 AM to expose an illegal money collection racket being run by private persons in civil dress alongside police and TRB personnel sitting in a private rickshaw. While the Petitioner was live-streaming this illegal activity on his public Facebook page, TRB Supervisor Sajan Bharwad rushed out with a heavy wooden log and brutally assaulted the Petitioner on his head and legs in broad daylight. The Petitioner sustained severe life-threatening injuries and had to be rushed to the hospital in a 108 Ambulance.

4. Following public outrage and a crowd gathering at the police station, the police registered an FIR against the police/TRB personnel under Sections 143, 147, 149, 323, 324, 307 (Attempt to Murder) of the IPC and Section 135 of the Gujarat Police Act (C.R. No. Annexure-C). It is the Petitioner's case that the impugned FIR (Annexure-A) was created by the police as a concocted counter-blast to insulate corrupt officers from criminal liability and to coerce the Petitioner into dropping the prosecution under Section 307 IPC.

5. Submissions on Behalf of the Petitioner

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5.1 Ld. Advocate Mr. S M. Kikani for the Petitioner submitted as under:

Mala Fide Counter-Blast: The impugned FIR is a clear counter-blast filed with an ulterior motive to neutralize the FIR registered against the police personnel for attempting to murder the Petitioner under Section 307 IPC.

Absurdity of Extortion Allegation: The claim that a single activist lawyer attempted to extort ₹30,000/month from on-duty armed police personnel while live-streaming on social media is inherently absurd and improbable.

No Offence Under SC/ST Atrocities Act: The ingredients of Sections 3(1)(r) and 3(1)(u) of the Atrocities Act are completely absent. The vague allegations of casteist remarks were maliciously inserted as an afterthought to prevent the Petitioner from seeking quashing and to misuse statutory protection as a shield.

Uncontroverted Video Evidence: The entire incident was broadcast live on social media and recorded on public CCTV. The video clearly shows the Petitioner holding a phone, being brutally attacked without provocation, and never touching or assaulting any police officer.

Applicability of *Bhajan Lal* Guidelines: The present case falls squarely under categories (1), (3), (5), and (7) laid down by the Hon'ble Supreme Court in *State of Haryana v. Bhajan Lal (1992)*.

6. Submissions on Behalf of the Respondent-State (Ld. APP)

6.1 Ld. Additional Public Prosecutor (APP), appearing for Respondent No. 1 - State, strongly opposed the petition and submitted as under:

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Prima Facie Case Disclosed: A bare reading of the FIR discloses cognizable offences under Sections 332, 353, 385, and 427 IPC, as well as provisions of the SC/ST Atrocities Act.

Allegations of Extortion & Obstruction: The Petitioner abused public servants, disrupted traffic regulation duty, tore the uniform of TRB Supervisor Sajan Bharwad, and demanded illegal gratification under threat of viral videos. That there is ample material to point out that the complainant was assigned duty at the place of offence and there is no question of false implication of the petitioner.

Defences Subject to Trial: The contentions raised by the Petitioner regarding counter-blast, self-defence, or live-stream recordings are matters of defence that can only be tested through evidence during trial.

Limited Scope u/s 482 Cr.P.C.: The High Court ought not to conduct a mini-trial at the threshold stage under Section 482 Cr.P.C., and the petition should be dismissed.

7. Analysis & Findings:-

7.1 Having heard the Ld. Advocates for the respective parties and having perused the material on record, including the FIR, the counter-FIR, and the sequence of events, this Court arrives at the following findings:

A. Inherent Powers Under Section 482 Cr.P.C. & *Bhajan Lal* Principles

7.2 The legal position regarding the exercise of inherent jurisdiction under Section 482 Cr.P.C. is well-settled. In the landmark decision of ***State of Haryana v. Bhajan Lal, 1992***

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Supp (1) SCC 335, the Hon'ble Supreme Court articulated specific categories where the High Court should exercise its inherent powers to quash criminal proceedings:

> *"(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.*
> *(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."*

7.3 The Apex Court in the case of *Mahmood Ali vs State of UP reported in 2023 INSC 684* has observed as follows:

> *"Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation."*

Thus, tested on the afore stated principles this Court will now delve in to the facts of the present case.

B. Evaluation of the "Counter-Blast" and Mala Fide Intent

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(1) The timeline of the incident reveals a striking picture:
On 18.08.2022 at 11:40 AM, the Petitioner was live-streaming on Facebook.

(2) During the live-stream, TRB personnel assaulted the Petitioner with a heavy wooden weapon, inflicting severe injuries on his head and limbs, requiring emergency hospitalization (leading to an FIR under Section 307 IPC against the police/TRB personnel).

(3) The impugned FIR was registered shortly thereafter at the behest of Respondent No. 2 (ASI Gamit).

7.4 It is almost impossible to believe that an advocate live-streaming an event on Facebook in full public view would simultaneously attempt to commit extortion (Section 385 IPC) and physical assault on police personnel (Section 332/353 IPC). The narrative that the Petitioner demanded ₹1,000 per day from traffic personnel while simultaneously broadcasting the scene live is inherently improbable and absurd under Category (5) of *Bhajan Lal*.

7.5 This Court is satisfied that the impugned FIR was brought as a classic counter-blast and an abuse of police authority to create a leverage/settlement against the grave charge of attempt to murder (Section 307 IPC) registered against the TRB/police personnel.

C. Non-Applicability of SC/ST Atrocities Act

7.6 To attract Section 3(1)(r) or 3(1)(u) of the SC/ST (Prevention

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of Atrocities) Act, the alleged casteist insult or intimidation must be committed with the *mens rea* to humiliate a member of a Scheduled Caste or Scheduled Tribe specifically because of their caste identity in a place within public view.

7.8 A reading of the FIR reveals that the vague utterance attributed to the Petitioner was added as a generalized narrative without specific corroborative detail. Sweeping and omnibus allegations of caste slurs inserted to invoke stringent provisions of the Atrocities Act, particularly in the backdrop of a pre-existing dispute or counter-blast, cannot be allowed to stand. The invocation of the Atrocities Act in the present case appears to have been used purely as an "umbrella shield" to insulate the police personnel from quashing proceedings. To attract the invocation of Section 3(1)(r) of the Atrocities Act, the alleged intentional insult or intimidation must be committed with the explicit *mens rea* to humiliate a member of a Scheduled Caste or Scheduled Tribe specifically because of their caste identity, and such act must occur in a place within "public view." A routine dispute or general altercation cannot be wrapped under the umbrella of the Atrocities Act unless the foundational element of targetted, caste-based humiliation is established.

7.9 A bare perusal of the narration in the present FIR reveals that the altercation broke out due to the Petitioner video-recording the traffic checking operations and alleging administrative corruption ("*wrongly harassing and looting people*"). The dispute plainly originated from a confrontation regarding official public duties and the alleged high-handedness of the traffic staff. The alleged utterance regarding the

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complainant's Adivasi background is decoupled from any foundational caste-centric malice; it is a general, vague assertion super-imposed onto a situational argument regarding traffic enforcement. Furthermore, Section 3(1)(u) targets the promotion of feelings of enmity, hatred, or ill-will against members of SC/ST communities *as a collective class*. The assertions in the FIR reflect an individualized, localized dispute concerning traffic enforcement metrics rather than an attempt to incite communal hatred or public disharmony against the Gamit community. Therefore, the essential ingredients to prosecute the Petitioner under Sections 3(1)(r) and 3(1)(u) of the Atrocities Act are conspicuously absent.

D. Absence of Prima Facie Offence under Sections 332, 353, 385 & 427 IPC

7.10 In a proceeding under Section 482 of the Cr.P.C. for quashing an FIR, the High Court is legally obligated to examine whether the uncontroverted allegations in the FIR, even if taken at face value, satisfy the statutory ingredients of the offences alleged. A section-by-section analysis reveals why Sections 332, 353, 385, and 427 of the IPC are completely non-attracted in the present case:

7.11 Section 353 IPC (Assault or criminal force to deter public servant from discharge of his duty)

Statutory Ingredients:

To attract Section 353 IPC, the prosecution must establish:

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That the victim was a public servant executing his duty;
That the accused assaulted (Section 351 IPC) or used criminal force (Section 350 IPC) against the public servant;
That such assault or criminal force was committed with the specific intent to prevent or deter the public servant from discharging his official duty.

Reasons why Section 353 IPC is Not Attracted:

Absence of "Criminal Force" or "Assault": Under Section 350 IPC, "criminal force" requires the intentional motion or change of motion applied to a person without their consent to cause injury, fear, or annoyance. "Assault" under Section 351 IPC requires a gesture or preparation making the victim apprehend imminent criminal force.
Live Video Evidence Negates Physical Aggression: The record and uncontroverted live Facebook video broadcast show that the Petitioner was merely standing on a public road holding his mobile phone to record an ongoing illegal extortion racket. The Petitioner made no aggressive gestures, did not advance menacingly, and used zero physical force against ASI Gamit or any TRB personnel.
Videography of Public Officials is Not Criminal Deterrence: Recording public servants performing their official duties in a public space does not constitute "criminal force" or "obstruction" in law. Transparent public observation or citizen videography cannot be equated with physical deterrence under Section 353 IPC.
Inversion of Victim and Aggressor: The undisputed timeline demonstrates that it was TRB Supervisor Sajan Bharwad who

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rushed out with a heavy wooden log and inflicted serious head and leg injuries upon the Petitioner, resulting in a counter FIR under Section 307 IPC (Attempt to Murder) against the officers. Alleging that the unarmed victim used criminal force against armed officers is inherently absurd and improbable.

7.12 Section 332 IPC (Voluntarily causing hurt to deter public servant from his duty)

Statutory Ingredients:

To attract Section 332 IPC, the prosecution must establish:

That "hurt" (as defined under Section 319 IPC—bodily pain, disease, or infirmity) was caused to a public servant;

That the hurt was caused voluntarily by the accused;

That it was done to deter the public servant from discharging official duties.

Reasons why Section 332 IPC is Not Attracted:

Absence of Medical Evidence / Injury to Officers: The FIR vaguely alleges that the Petitioner dealt "punches and blows" to TRB personnel. However, there is no medical injury certificate, medico-legal case (MLC) report, or physical evidence on record showing that any police officer or TRB personnel sustained bodily pain or physical injury.

Complete Lack of Causation by Petitioner: The Petitioner was holding a mobile camera in live mode, which required the use of his hands. It is physically impossible for the Petitioner to simultaneously carry out a live social media broadcast and deliver physical punches to police personnel.

Petitioner Was the Only Injured Party: The medical record

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establishes that the Petitioner alone suffered severe bodily trauma requiring emergency hospitalization via 108 Ambulance. In the absence of any bodily hurt suffered by the public servants, the core ingredient of Section 319/332 IPC is absent.

7.13 Section 385 IPC (Putting person in fear of injury in order to commit extortion)

Statutory Ingredients:

To attract Section 385 IPC, the prosecution must establish:

That the accused put or attempted to put a person in **fear of injury**;

That such act was done dishonestly in order to commit extortion (as defined under Section 383 IPC, which requires inducing the victim to deliver property or valuable security).

Reasons why Section 385 IPC is Not Attracted:

Inherent Absurdity of the Extortion Story: The complainant alleges that the Petitioner demanded ₹30,000 per month (at ₹1,000 per day) from TRB Supervisor Sajan Bharwad under threat of making videos viral. However, the Petitioner was conducting a public live stream directly on Facebook at that exact moment. An activist lawyer broadcasting live to thousands of online viewers in broad daylight cannot, by any stretch of human logic, be simultaneously conducting a secret extortion racket.

No "Fear of Injury" or Delivery of Property: Section 383/385 IPC requires a direct nexus between putting a person in fear of injury and inducing them to hand over money or property. Exposing official corruption or public misconduct on social media does not constitute putting an officer in unlawful "fear of injury"

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under Section 385 IPC.

Belated Allegation as an Afterthought: The allegation that the Petitioner had been demanding money for 15–20 days prior was never reported to any higher authority or written down until after the police officers brutally assaulted the Petitioner. This demonstrates that the extortion charge was engineered solely to meet the threshold of a non-bailable offence to counter the Petitioner's prosecution.

7.14 Section 427 IPC (Mischief causing damage to the amount of fifty rupees)

Statutory Ingredients:

To attract Section 427 IPC, the prosecution must establish:

That the accused committed mischief (as defined under Section 425 IPC);

That the accused intended to cause, or knew he was likely to cause, wrongful loss or damage to public or private property;

That the damage caused amounted to ₹50 or more.

Reasons why Section 427 IPC is Not Attracted:

Absence of Intentional Mischief (Section 425 IPC): Section 425 IPC mandates *mens rea*—an intention or knowledge to cause destruction of property or diminish its utility.

Torn Uniform Allegation is Concocted: The FIR states that the Petitioner tore the pocket of TRB Supervisor Sajan Bharwad's uniform shirt and snapped off his shoulder badge and buttons. However, video footage confirms that the Petitioner never grabbed or initiated physical contact with the officers.

Damage Resulted from Police Assault, Not Petitioner's

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Act: If any uniform buttons or badges were displaced, it occurred during the violent assault launched by the TRB supervisor while swinging a wooden log at the Petitioner. Damage caused to an officer's uniform as a collateral result of their own physical assault upon a citizen cannot be attributed to the victim as an act of "mischief" under Section 427 IPC.

8. When the fundamental statutory ingredients of Sections 332, 353, 385, and 427 of the IPC are absent on the face of the FIR and contradicted by uncontroverted video evidence, the continuation of criminal proceedings constitutes a manifest abuse of the process of law. Consequently, all these offences are liable to be quashed under Section 482 Cr.P.C. Permitting the prosecution in C.R. No. 11210008221302/2022 to continue against the Petitioner would amount to a gross misuse of the judicial machinery and a clear abuse of the process of law. The case falls squarely within the parameters of categories (5) and (7) of *Bhajan Lal.*

9. Present Application is **allowed**. The First Information Report bearing C.R. No. 11210008221302/2022 registered with Sarthana Police Station, Surat City, for offences under Sections 332, 353, 385, and 427 of the IPC and Sections 3(1)(r) and 3(1)(u) of the SC/ST (Prevention of Atrocities) Act, 1989, along with all consequential proceedings arising therefrom, is hereby quashed and set aside qua the Petitioner. Direct service is permitted.

(P. M. RAVAL, J)

MMP

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