

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 19978 of 2014**

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE P. M. RAVAL

=====		
Approved for Reporting	Yes	No
		✓

=====

DIPIKABEN ROHITKUMAR CHAUHAN
Versus
STATE OF GUJARAT

=====

Appearance:
MR HARDIK H DAVE(6295) for the Applicant(s) No. 1
PUBLIC PROSECUTOR for the Respondent(s) No. 1

=====

CORAM:HONOURABLE MR.JUSTICE P. M. RAVAL

Date : 21/10/2026

ORAL JUDGMENT

1. The applicant before this Court has invoked Section 482 of the Code of Criminal Procedure, 1973, to quash and set aside the FIR being C.R. No.8 of 2014 registered with the Gandhinagar A.C.B. Police Station, for the offence punishable under Sections 12, 13(1) (e) and 13(2) and subsequently added Section 13(1)(d) of the Prevention of Corruption Act, 1988, alongwith the consequential proceedings arising therefrom.

2. The crux of the allegation leveled in the FIR are to the effect that the Police Inspector, A.C.B., Vadodara allegedly received

secrete information through his informers that the Dy. Commissioner and a Junior Clerk of Food and Drug Control Administration located in Dr. Jivraj Mehta Bhavan, Block No.8, Gandhinagar, carry amounts received from the applicants in their private car. Hence, it was decided to carry out a raid in that connection.

2.1. Accordingly, on 14.10.2014 the raiding party reached in the parking area in Block No.8, Dr. Jivraj Mehta Bhavan and at around 18:45, one man and woman set in that particular car and at that time the raiding party reached there introduced themselves and questioning both the occupants of that car. The search was carried out of both the occupants and the car by the raiding party. From the hand bag of the applicant an amount of Rs.45,420/- was recovered in connection of which the explanation was sought. That the applicant was unable to give explanation to the satisfaction of the complainant.

2.2. Thereafter other occupant – Rohitkumar Shantilal Chauhan (husband of the applicant) was also searched and an amount of Rs.30,128/- was found. That, on being question about possession of that amount said Rohitkumar was not able to give explanation to the satisfaction of the complainant. In said set of circumstances the FIR came to be lodged.

3. Learned advocate Mr. Hardik H. Dave for applicant would submit that after lodging of the aforesaid FIR, the applicant was

detained for interrogation on 14.10.2014 till 15.10.2014 and was permitted to go home and written summons were given to remain present on 16.10.2014. The applicant was interrogated and was again called on 17.10.2014 at 5:00 p.m., the applicant was arrested. That, on 18.10.2014 remand report was submitted for a period of five days, and the remand was granted for a period of two days by an order dated 18.10.2014 by the learned trial Court. Thereafter, the applicant came to be enlarged on regular bail, and thereafter, the investigation was proceeded and the investigating officer submitted a report for adding Section 13(1)(d) of the Prevention of Corruption Act on 05.11.2014. Thereafter, on 21.11.2014, the investigating officer submitted another report for deletion of Section 12 of the Prevention of Corruption Act.

3.1. It is submitted that there are ample reason to believe that the applicant is being made a scapegoat on account of the strict action taken by the applicant to improve the efficiency of her department. That the investigating agency is not having any independent source of information as narrated in the FIR, but on behest of Managing Director of Jay Formulations Ltd., Ahmedabad, that the present FIR is initiated.

3.2. Learned advocate would further submit that on 17.04.2013, the applicant was given additional charge of Joint Commissioner (Testing) and therefore the Food and Drug Laboratory, Vadodara was

placed under her control. That, on account of the active steps taken by the applicant in increasing the efficiency of the staff and the equipments after taking over the charge and the samples which failed in tests, pursuant to which the Jay Formulations company attempted to deter the present applicant from her strict vigil by submitting anonymous letters concerning the applicant, and when such tactics did not work out, started visiting head office of A.C.B. and pursuant to which witch-hunting of the applicant started.

3.3. Learned advocate would further submit that the applicant herein made a representation to the director bringing all these facts on the record alongwith the test reports of the samples of said pharmaceutical company, which was also placed on record alongwith the present application. Learned advocate would also submit that even if the allegations leveled against the applicant in the FIR are taken to be true and correct, however, the ingredients of the ingredients of the offence of Section 13(1)(e) of the Prevention of Corruption Act are not made out, inasmuch as, the prosecution is failed to point out as to how the recover of Rs.45,420/- from the present applicant which are even not tainted money, could be considered as disproportionate to the known source of income, since the salary of the applicant and the amount found cannot be termed as disproportionate to the known source of income.

3.4. It is also the case of the applicant that her husband is also a

government servant and working in the same department and that there is no prohibition of carrying the cash amount with the applicant even as per the GCSR, calling for any explanation. When the applicant could not immediately give answers with regards to the recovery of the amount, it cannot be said that the present applicant was having an amount disproportionate to the known source of income.

3.5. Learned advocate would further submit that as far as Section 13(1)(e) of the Prevention of Corruption Act is concerned, except for the allegations in the FIR that there were anonymous applications with regards to corrupt practices being adopted by the present applicant is concern, there is not a single statement of any aggrieved party alleging corrupt practices being adopted by the present applicant, and as such, *prima facie* there is no case attracting provisions of Section 13(1)(e) of the Prevention of Corruption Act. Even otherwise, any amount which has been obtained either by loan or otherwise from third party has to be informed to the office within two months as per the GCSR. And thus, it is argued that at the relevant point of time, the two months' basic salary of the present applicant amounted to Rs.70,000/-, and therefore, recovery of Rs.45,420/- from the present applicant falls short of such requirement, and therefore also, she was not under any obligation to inform to the office with regards to even if any amount which has been obtained from friends / known persons by way of loan or

otherwise. Thus, it is argued that the present application be allowed.

4. Learned advocate for the applicant would place on record the photocopies of two letters dated 13.06.2023 and 09.10.2026 whereby the application for disproportionate asset came to be closed way back in year 2023 and secondly in year 2026, the same are taken on record.

5. *Per contra*, the learned Additional Public Prosecutor would submit that a *prima facie* case of Section 13(1)(e) of the Prevention of Corruption Act is made out, inasmuch as the applicant has failed to explain the source of cash which was found from her during the raid, and there are contradictory statements with regards to the explanation of the cash found from her, which creates serious doubt with regards to the genuineness of the amount found to the tune of Rs.45,420/-, and when the applicant has failed to satisfactorily account for the possession of Rs.45,420/-, it would clearly fall within the four corners of Section 13(1)(e) of the Prevention of Corruption Act, and as thus, argued to reject the present application.

6. Heard learned advocates for the respective parties. This Court has gone through the papers of the charge-sheet as well as FIR against the applicant. Not a single evidence was placed on record as far as attracting provisions of Section 13(1)(d) of the Prevention of Corruption Act are concerned. There is not a single statement as to

how and by what corrupt or illegal means, or by how abusing her position as a public servant, has obtained any valuable thing or pecuniary advantage, namely Rs.45,420/- as alleged, without any public interest. However, it is only based on some anonymous applications that the search was conducted in person, where Rs.45,420/- was found in possession of the present applicant. Thus, it is also not the case of the prosecution that it was a trap and that tainted amount was recovered from the present applicant. Having said so, none of the ingredients of Section 13(1)(d) of the Prevention of Corruption Act are attracted.

7. As far as attracting the provisions of Section 13(1)(e) of the Prevention of Corruption Act is concerned, to sustain the said charge the prosecution following ingredients are necessary:

1. The prosecution must prove that the accused is a public servant (which she is and is not under dispute).
2. The nature and extent of pecuniary resources or property which are found in his or her possession (as alleged, sum of Rs.45,420/- in cash was found from the possession of the present applicant).
3. It must be proved as to what were his/her known source of income that is known to the prosecution, which in the present case, Rs.65,246/- is her salary and Rs.48,206/- is her husband's salary.
4. The prosecution must object and prove that the resources or

property found in possession of the accused were disproportionate to his or her known source of income.

8. It is only if the above ingredients are satisfied, that the offence of criminal misconduct under Section 13(1)(e) of the Prevention of Corruption Act would be attracted. If the accused is able to account for such resources or property, no such offence would be made out. Merely because the present applicant fumble in giving the explanation with regards to the amount she was carrying would not fall within the four corners of Section 13(1)(e) of the Prevention of Corruption Act, inasmuch as the prosecution has relied upon the pay slip of June 2014 wherein her pay deposited in the SBI Gandhinagar branch bearing account No.10544600220 is to the tune of Rs.62,914/-. Learned advocate for the applicant had also relied upon two communications of the department, whereby while communication dated 13.06.2023 by the reader police inspector, Ahmedabad Application Department 2 of the ACB and subsequent communication dated 09.10.2026 by the Police Inspector, Gandhinagar ACB Police Station, the applications for disproportionate asset were closed.

9. Be that as it may, merely the applicant having found in possession of Rs.45,420/- and in absence of any satisfactory explanation at the very instance itself would not amount to property disproportionate to her known source of income or pecuniary

resources inasmuch as the husband of the present applicant is also a government servant and as he could satisfactorily given answer to the amount which he was carrying to the tune of Rs.30,128/- was not arraigned as an accused in the present case.

10. It is also the case of the prosecution, whereby the statement of Nirananjan Desai and Pratik Desai were recorded by the investigation agency, would support the case of the applicant, which in turn would clarify as to how she was possessing Rs.45,420/- with her. If the salary in June 2014 is to the tune of Rs.62,914, the applicant having found with a sum of Rs.45,420/- which is not tainted money, cannot be said to be disproportionate to the known source of income since both husband and wife are working, and merely non-explanation as to how she was in possession of this Rs.45,420/- would not fall within the four corners of Section 13(1) (e) of the Prevention of Corruption Act. Since it is the obligation of the prosecution to allege as to how Rs.45,420/- would be disproportionate to the known source of income of the applicant alongwith her husband, who is also a government servant and was also searched.

11. It is also required to be noted that generally the prosecutions would rely upon the calculations under a, b, c, d formula, which is also not forming part of the present charge-sheet, which would point out as to how the amount is disproportionate to the non-source of

income. Thus, merely on the non-explanation by the present applicant with regards to the amount she was holding during the raid conducted would not amount to offence under Section 13(1)(e) of the Prevention of Corruption Act.

12. Under the circumstances, the present application is allowed. The FIR being C.R. No.8 of 2014 registered with the Gandhinagar A.C.B. Police Station, and consequential proceedings arising therefrom are hereby quashed and set aside qua the present applicant.

13. Rule is made absolute to the aforesaid extent. Direct service is permitted.

NITIN MAKWANA

(P. M. RAVAL, J)