

Reserved On : 16/01/2026
Pronounced On : 03/02/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION (DIRECTION) NO. 8358 of 2023

With
CRIMINAL MISC.APPLICATION (FOR INTERIM RELIEF) NO. 2 of 2023
In R/SPECIAL CRIMINAL APPLICATION NO. 8358 of 2023

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CRIMINAL MISC.APPLICATION (DIRECTION) NO. 2 of 2024
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FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE M. R. MENGDEY

Approved for Reporting		
	Yes	No

VISHWAS SUDHANSHU BHAMBURKAR
Versus
STATE OF GUJARAT & ORS.

Appearance:

PARTY IN PERSON(5000) for the Applicant(s) No. 1
MR. HARDIK DAVE, PUBLIC PROSECUTOR for the Respondent(s) No. 1
MR. H.K.PATEL, APP
SERVED BY RPAD (N) for the Respondent(s) No. 2,3,4,5

CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY

CAV JUDGMENT

- The Registry has provided Video Footage of hearing of this matter which had taken place on 16.01.2026 in the Pen drive and the same is also placed on record.
- By filing the present petition under Article 226 and 227 of the Constitution of India read with Sections 482 of the Cr.P.C. and Section 401 pf Cr.P.C., the petitioner Party-in-Person has prayed for the following reliefs:-
(A) *adjudicate the questions of law raised in para 3 of the*

present petition.

- (B) issue an appropriate writ, order or direction directing the Police Respondents to place on record of this Hon'ble Court on affidavit, the General Diary/ Station Diary/Daily Diary as directed in sub-paras (ii), (vii) and (viii) of para 111 of (2014) 2 SCC 1, Lalita Kumari versus State of Uttar Pradesh & Ors.;*
- (C) issue an appropriate writ, order or direction directing Respondent No. 1 to take action, especially under section 166A of the Indian Penal Code as directed in sub-para (iv) of para 111 of (2014) 2 SCC 1, Lalita Kumari versus State of Uttar Pradesh & Ors.;*
- (D) pass a reference to the Hon'ble Supreme Court of India with regard to the contempt of court on the part of the Ld Chief Judicial Magistrate (Mr.P. B. Patel) at Surat who has passed the impugned order dated 30.06 2023 in CrMA J/2/2023*
- (E) pass appropriate orders to send the Ld. Chief Judicial Magistrate (Mr. P. B. Patel) at Surat who has passed the impugned order dated 30.06.2023 in CrMA J/2/2023 for training since he seems unaware of the law of the land, is not only not up to date with judgments which are over 13 years old, but also displays the propensity to misread and misinterpret the directions of none less than the Hon'ble Supreme Court of India,*

- (F) *quash and set aside the impugned order dated 30.06.2023 passed by the Ld. Chief Judicial Magistrate at Surat in CrMA J/2/2023;*
- (G) *issue a writ of mandamus and/or any other appropriate writ, order or direction directing the Police Respondents herein to immediately lodge an F.I.R. as contemplated under Section 154 of Code of Criminal Procedure, 1973 and reiterated and settled vide para 111(i) of (2014 2 SCC 1, Lalit Kumari versus State of Uttar Pradesh and Others by way of interim relief;*
- (G)(i) *pending final outcome of the present petition, proceedings in Cr.M.A. No.J/2/2023 before the learned Chief Judicial Magistrate at Surat may kindly be stayed in the interest of justice by way of interim relief.*
3. The facts and circumstances giving rise to filing the present petition are such that the Airport Authority of India had granted NOC for construction of buildings for the areas nearing the Surat Airport. Upon verification it was found that the construction put up on the sites on the basis of the NOC granted by Airport Authority of India had deviated from the site mentioned in the NOC and such deviation was ranging from 42 meters to 1600 meters. The PIL being Writ Petition No.633 of 2019 has been filed by the petitioner before this Court and the same is still pending.

4. The petitioner herein approached Dumas Police Station of Surat City by filing an application no.33 of 2021 on 11.04.2021. The said application was ordered to be filed since cognizable offence was not disclosed. The petitioner thereafter approached the Commissioner of Police, Surat City by filing application under Section 154(3) of the Cr.P.C.. The said application was also ordered to be filed for the foregoing reasons. Thereafter, the petitioner approached this Court by filing Special Criminal Application No.5144 of 2021 praying for the following reliefs:-

- "(B) issue an appropriate writ, order or direction directing the police respondents to place on record of this Hon'ble Court on affidavit, the General Diary / Station Diary / Daily diary as directed in Sub-paras (ii), (vii) and (viii) of para 111 (1) of (2014) 2 SCC 1, Lalita Kumari Versus State of Uttar Pradesh & Ors.*
- (C) Issue an appropriate writ, order or direction directing respondent No 1 to take action, especially under section 166A of the Indian Penal Code as directed in sub-para (iv) of para 111 of) of (2014) 2 SCC 1, Lalita Kumari Versus State of Uttar Pradesh & Ors.*
- (D) Issue a writ of mandamus and/or any other appropriate writ, order or direction, directing the police respondents herein to immediately lodge an F.I.R. as contemplated under Section 154 of the Code of Criminal Procedure, 1973 as settled vide para 111(i) of*

2014(2) SCC 1 of Lalita Kumari vs. State of Uttar Pradesh & Ors.

5. The Coordinate Bench of this Court vide order dated 19.09.2022 was pleased to dispose of the said petition by relegating the petitioner Party-in-Person to take recourse alternative remedy available to him by filing appropriate application before the learned Magistrate. The said order was challenged by the petitioner before the Hon'ble Apex Court by filing Special Leave to Appeal (Criminal) No.10419 of 2022. The Hon'ble Apex Court vide order dated 09.12.2022, disposed the said petition by observing that *"Therefore, we see no reason to interfere with the impugned order dated 19.09.2022 passed by the High Court of Gujarat, Ahmedabad."* Thereafter, the petitioner approached the Court of learned Magistrate at Surat by filing Criminal Misc. Application No.2 of 2023 under Section 156(3) of the Cr.P.C.. learned Magistrate vide order dated 30.06.2023 observed that the complainant has not satisfied this Court to pass order under Section 156(3) of the Cr.P.C. and therefore, declined to refer the complaint for investigation under Section 156(3) of the Cr.P.C.. However, the learned Magistrate thought it fit to examine the complainant in view of the provisions of Section 200 of the Cr.P.C. and had summoned the petitioner herein to remain present before him. Being aggrieved and dissatisfied with the order passed by learned Magistrate, the petitioner is before this Court by filing present petition.
6. The petitioner Party-in-Person submitted that the present

petition arises from the failure of the police authorities to register an F.I.R. despite clear disclosure of cognizable offences in his complaint dated 14.01.2020 addressed to the Commissioner of Police, Surat. The complaint alleges that several builders obtained No Objection Certificates from the Airports Authority of India by submitting forged and fabricated documents relating to the location and coordinates of the proposed buildings, and thereafter, constructed buildings at locations substantially different from those approved, thereby committing offences punishable under Sections 467, 468, 471, 420 and 120-B of the IPC. The NOCs themselves stipulate that any deviation in location renders the permission void, and documents on record show lateral deviations ranging from 43 meters to 1609 meters in multiple building complexes.

- 6.1 It is submitted that the petitioner duly complied with Sections 154(1) and 154(3) of the Cr.P.C. by approaching senior police officials when the F.I.R. was not registered. Reliance is placed on the Constitution Bench judgment in *Lalita Kumari v. State of U.P.* to contend that registration of F.I.R. is mandatory once information discloses commission of a cognizable offence and that no preliminary inquiry into veracity is permissible. Despite this, the police neither registered an F.I.R. nor acted in accordance with law, even though their internal communications and the closure report themselves acknowledge disclosure of cognizable offences. He submitted that ***“I am sorry to say but the general opinion is that the Hon’ble Supreme Court***

passes orders which it is unable to get executed.”

- 6.2 The petitioner Party-in-Person further submitted that the police fabricated records and conducted an impermissible inquiry without registration of F.I.R., as reflected from discrepancies in outward numbers and dates of official communications and from internal correspondence referring to “*inquiry*” and “*investigation*” without an F.I.R.. It is contended that such actions amount to burking of offences in defiance of settled law.
- 6.3 The petitioner pointed out that this Court, in an earlier order in Special Criminal Application No.5144 of 2021, recorded that the complaint disclosed commission of cognizable offences, yet the petitioner was relegated to the remedy under Section 156(3) Cr.P.C.. ***He then raised a question that in such cases can the judges be permitted to continue the injustice being inflicted upon the citizen under the cover of alternate remedy?*** However, pursuant to the order of this court, the petitioner approached the learned Magistrate relying upon *XYZ v. State of M.P., Sudhir Bhaskar Rao Tambe v. Hemant Yashwant Dhage*, wherein the Supreme Court held that once a Magistrate finds *prima facie* disclosure of cognizable offences and necessity of police investigation, an order under Section 156(3) Cr.P.C. must follow. However, the application was rejected by learned magistrate on the ground that the Airports Authority of India had not lodged any complaint, which according to the petitioner is contrary to the law laid down in *A.R. Antulay v. Ramdas*

Nayak that any person can set criminal law in motion.

- 6.4 It is further submitted that documentary material placed on record, including survey maps and communications of the Airports Authority of India, conclusively establish that buildings were constructed at coordinates different from those applied for, resulting in obstruction to safe flight operations and displacement of the runway threshold by 615 meters. Reliance is placed on judgments of the Bombay High Court directing registration of F.I.R.s against builders for similar misrepresentations near airports, to contend that criminal prosecution in such matters is neither unprecedented nor unwarranted. *He further submitted that, "it is rather distressing that while one constitutional court shows the proactiveness to address the issues pertaining to public safety, another constitutional court flagrantly disregards the law thereby ensuring that not even an FIR is lodged"*.
- 6.5 The petitioner Party-in-Person submitted that the issue involves serious public safety concerns and violation of Article 21 of the Constitution, as aviation safety around Surat Airport has been compromised due to unauthorized constructions. It is contended that directing registration of F.I.R. or investigation would cause no prejudice to any party, whereas continued inaction undermines the rule of law and public confidence in the criminal justice system. Accordingly, the petitioner prays for appropriate directions to ensure registration of F.I.R. and lawful investigation of the offences disclosed.

7. Learned Public Prosecutor Mr. Hardik Dave with learned Additional Public Prosecutor Mr. Himanshu Patel appearing for the respondent State opposed the grant of present petition *inter-alia* contending that the present petition is a repetitive and successive round of litigation. Similar prayers seeking directions for registration of an F.I.R. were earlier made in Special Criminal Application No.5144 of 2021, which came to be dismissed by this Court on the ground of availability of an efficacious alternative remedy before the Magistrate. The said order was carried before the Hon'ble Supreme Court, which declined to interfere and permitted the petitioner to avail remedies in accordance with law.
- 7.1 Learned Public Prosecutor further submitted that pursuant thereto, the petitioner Party-in-Person has already filed a private complaint, wherein the learned Magistrate has taken cognizance under Section 190 Cr.P.C. and the proceedings are presently pending. In spite of the same, the petitioner Party-in-Person has again approached this Court with substantially identical prayers, merely adding further prayers (D), (E) and (F), which contain unwarranted allegations against the concerned Judicial Magistrate.
- 7.2 Learned Public Prosecutor further submitted that it is a basic principle that judicial orders passed by the Magistrate cannot form the basis for contempt proceedings. Therefore, the relief sought for in this regard is misconceived. The petition is, therefore, nothing but an attempt to reopen the issues already concluded and to

bypass the statutory remedy already invoked by the petitioner. He, therefore, submitted that the present petition may be dismissed with costs.

8. Heard Party-in-Person and learned Public Prosecutor appearing for the respondent State.
9. At the outset, it is required to be noted that the present petition is a classic example of the petition which is thoroughly misconceived and an abuse of process of law. The petitioner is before this Court challenging the order passed by the learned Magistrate whereby his prayer for referring the complaint for investigation under Section 156(3) of the Cr.P.C. to the concerned Police Station has been declined and learned Magistrate has thought it proper to examine the complainant under the provisions of Section 200 of the Cr.P.C. Though the order impugned in the present petition is amenable to revisional jurisdiction under Section 397 of the Cr.P.C., the petitioner has approached this Court directly without availing alternative remedy available to him.
10. From the record it appears that the Airport Authority of India had granted NOC for construction of buildings nearby Surat Airport and on the basis of NOC granted by the Airport Authority of India and several buildings have been constructed by the respective builders. Thereafter, the Airport Authority of India along with local authority had carried out joint survey and it was found that the builders in question had tendered different WGS84 coordinates and

the buildings were constructed on significantly different WGS84 coordinates and having different site elevation than what were applied for by builders during NOC. Thus, the construction which was put up on the basis of NOC granted by the Airport Authority of India was carried out on different places than the site for which NOC was granted by the Airport Authority of the India. The petitioner herein had submitted an application on 12.04.2021 to the Commissioner of police, Surat City along with the other authorities. The main grievance raised by the petitioner in that application was to the effect that the respective builders had submitted forged documents with regard to elevation of buildings and on the basis of those forged documents; NOC was obtained from the Airport Authority of India. Copy of this application was also forwarded to the Station House Officer, Dumas Police Station, Surat City. The record indicates that upon receipt of the said application, Dumas Police Station had summoned the petitioner on several occasions asking him to provide cogent material supporting his allegations. However, the petitioner instead of remaining personally present before the concerned authorities had sent his written statement to the concerned police authorities. The Dumas Police Station vide Communication dated 21.04.2021 had informed the petitioner that since no cognizable offence was found to have been committed, the application was ordered to be filed. Upon perusal of this communication, it appears that the concerned police authorities had also addressed the letters to the Airport authorities as well as Municipal

Corporation asking them to inform as to whether any forged documents were used for obtaining NOC, the police authorities had received no replies from any of the above authorities and therefore, it had taken a decision to file an application submitted by the petitioner. Being aggrieved and dissatisfied with the same, the petitioner herein had approached this Court by filing Special Criminal Application No.5144 of 2021 praying for the reliefs referred to herein above.

11. The Coordinate Bench of this Court vide order dated 19.09.2022 had been pleased to dismiss the petition *inter-alia* observing that the law itself recognizes that where an F.I.R. is not registered, the aggrieved person has an option to approach the Court under Section 200 of the Cr.P.C. and under Section 156(3) of the Cr.P.C. This order was challenged by the petitioner before the Hon'ble Apex Court by filing petition referred to herein above. The Hon'ble Apex Court in its order dated 09.12.2022 had recorded that it found no reason to interfere with the order dated 19.09.2022 passed in Special Criminal Application No.5144 of 2021 and thus, the same had attained finality. Thereafter, the petitioner approached the Court of learned Magistrate, Surat by filing Criminal Misc. Application No.2 of 2023 under Section 156(3) of the Cr.P.C.. The learned Magistrate in his order dated 30.06.2023 had noted that the petitioner herein had not satisfied the Court to pass order under Section 156(3) of the Cr.P.C. However, he thought it appropriate to examine the complainant under

Section 200 of the Cr.P.C.. Learned Magistrate in the order dated 30.06.2023 had observed that considering the affidavit which was filed by the Airport Authority of India in the PIL before this Court, there is no averment that the builders had put forged documents and got NOC for the building construction. Therefore, learned Magistrate found that no cognizable offence was brought to the notice and therefore, he did not exercise powers under Section 156(3) of the Cr.P.C. Even during the course of hearing of the present petition, the petitioner has miserably failed to point out which documents were forged and produced before the Airport Authority for obtaining the NOC. Upon perusal of the affidavit filed by the Airport Authority of India before this Court in PIL in Para-6 of the affidavit, it is mentioned as under:-

It is further submitted that each of the NOC's are based upon the representations of data and the details by the builders themselves and the same is noted in the Para 3 of the Issued NOC's if at any stage it is established that the data as tendered by the applicant is different from that of the actual site data and in result to that the built structure will adversely affect the Aircraft operations then the built structure or any part thereof will be required to be demolished and NOC being Cancelled. That in the present case, builders in question have tendered different WGS-84 coordinates and ultimately after the joint survey being carried out by Respondent herein and Local municipal authority in the presence of representative of

concerned building, it has come to knowledge that the buildings are constructed on significantly different WGS-84 coordinates and having different Site Elevation than what were applied for by builders during NOC application. A copy of Sample NOC is annexed hereto and marked as "Annexure-R2".

12. Further in Para -8 of the affidavit, it is mentioned by the Airport Authority that the NOC obtained by the builders were wrong coordinates and site elevation provided by them at the relevant point of time and the construction of building has deviated from actual data provided to the respondent complainant.
13. Thus, nowhere in the affidavit, the Airport Authority has mentioned that any forged documents were submitted before it by the builders for grant of NOC. From the affidavit of the Airport Authority, it appears to be the case that the buildings in question were constructed on the place other than the site for which NOC was granted by the Airport Authority of India. Therefore, learned Magistrate was right and justified in holding that no cognizable offence was made out from the facts narrated by the petitioner before it. Learned Magistrate had though not accepted the prayer of the petitioner for investigation under Section 156(3); had decided to inquire into the complaint under Section 200 of the Cr.P.C. and had summoned the petitioner for the purpose of inquiry. The petitioner instead of participating in the process has approached this Court by filing present petition. It is argued by the petitioner that

complaint for commission of a cognizable offence can be lodged by any person and therefore, it was not necessary for the Airport Authority to lodge the complaint. Petitioner may be right in this regard but the authority could very well have pointed out to this court in the affidavit file by it that the NOC was obtained on the basis of forged documents, though it was not necessary for it to lodge the complaint.

14. It is sought to be contended by the petitioner that when he had submitted an application under Section 156(3) of the Cr.P.C. learned Magistrate could have either allowed the said application or could have dismissed the application. The learned Magistrate could not have treated the application as a complaint. This contention raised by the petitioner demonstrates the complete lack of legal knowledge on the part of the petitioner Party-in-Person. There is nothing in law which would preclude the learned Magistrate from treating the application under Section 156(3) of the Cr.P.C. as complaint. At this stage, reference to Section 190 of the Cr.P.C. would be necessary which reads as under:-

“190. Cognizance of offences by Magistrates.

- (1) Subject to the provisions of this Chapter, any Magistrate of the first class, and any Magistrate of the second class specially empowered in this behalf under sub-section (2), may take cognizance of any offence-

- (a) upon receiving a complaint of facts which constitute such offence;
 - (b) upon a police report of such facts;
 - (c) upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed.
- (2) The Chief Judicial Magistrate may empower any Magistrate of the second class to take cognizance under sub-section (1) of such offence as are within his competence to inquire into or try.
15. Section 190(1)(c) authorizes the Magistrate to take cognizance of an offence upon information received from any person other than the police officer or upon his own knowledge. An information received on the basis of an application filed under Section 156(3) of Cr.P.C would definitely fall under Section 190 (1) (c) and therefore, in the opinion of this court, even if the Magistrate does not pass the order for investigation under Section 156(3), the other course of treating the application as a complaint is always available to him. Learned Magistrate, having regard to the facts narrated in the application by the petitioner, found it necessary to inquire into the matter and therefore, had passed an order to examine the complainant under Section 200 of Cr.P.C. The magistrate has committed no wrong by treating the application submitted by the petitioner as a complaint.

16. It is also required to be noted that Prayer 9(B), 9(C) and 9(G) made in the present petition by the petitioner were already made by him in Special Criminal Application No.5144 of 2021, which was dismissed by this Court vide order dated 19.09.2022 and had been confirmed by the Hon'ble Apex Court vide order dated 09.12.2022.
17. Thus, the petitioner is trying to reopen the same chapter, which has already been closed upto the Hon'ble Apex Court. The prayer A in the present petition asks this Court to adjudicate the question of law raised in Para-3 of the petition. Para-3 of the petition reads as under:-

3.(A) Are the orders passed by the Constitution Bench of the Hon'ble Supreme Court of India of any consequence whatsoever to either this Hon'ble Court, which is a Constitutional Court, or even to the Executive?

3.(B) Should this Hon'ble Court be making efforts to see that directions, orders and judgments, passed by the Hon'ble Apex Court, including its Constitution Bench, are followed in toto, and executed in letter and in spirit, or should it be shooting the messenger by deprecating his efforts to point out the lacunae?

3.(C) Instead of following final directions of the Hon'ble Apex Court contained in para 111 of the Lalita Kumari Judgment, can this Hon'ble Court regurgitate, re-appreciate, review and discuss the arguments forwarded in para 20, of the same judgment and

order.

18. The questions which are raised by the petitioner Party-in-Person in the present petition, more particularly, in Para-3 of the petition are, by their very nature, contemptuous and are not of any significance. These issues were already raised by the petitioner in the earlier petition and the said petition was dismissed by this Court which also got approved from the Apex Court.
19. Prayer -D made in the petition by the petitioner Party-in-Person asks this Court to make a reference to the Hon'ble Apex Court with regard to contempt of Court on the part of the learned Magistrate, who has passed the order impugned in the present petition.
20. As observed herein above, this Court finds the order impugned in the present petition passed by learned Magistrate is just and proper and in accordance with law and is also in conformity of the settled principles of law and therefore, the prayer in question is not required to be granted. It is also required to be noted that the order impugned in the present petition is a judicial order passed by the learned Magistrate and if assumed the same order to be incorrect in the eyes of law, the same cannot be termed to be contempt of the Hon'ble Apex Court. The prayer in question, therefore, is absolutely misconceived. By prayer E, the petitioner has prayed to this Court that the learned Magistrate, who has passed the impugned order be sent for training since he seems unaware of law of

the land, is not only up to date with the judgments, which are over 13 years old but also displays the propensity to misread and misinterpret the directions of none less than the Hon'ble Apex Court. The petitioner herein appears to have assumed advisory jurisdiction unto himself over this Court. The petitioner while arguing the matter before this court referred to paragraph 5 of the order of the coordinate bench of this court in Special Criminal Application No. 5144 of 2021 and submitted that this court had found a cognizable offence being made out. In fact, the coordinate bench had noted the submissions of the petitioner in the said paragraph. There is no such finding recorded in the order. From the tenor of the present petition as well as manner in which arguments are made by the petitioner Party-in-Person before this Court, this Court is of the view that the petitioner Party-in-Person is more required to be imparted training of law and not the learned Magistrate. The prayer in question is, therefore, thoroughly misconceived and cannot be granted.

21. The petitioner has sought to rely upon the judgment of this court dated 22-12-2023 delivered in Special Criminal Application No. 13500 of 2023 in support of his arguments wherein the coordinate bench has directed the learned Magistrate to pass an order for investigation under Section 156(3) of Cr.P.C. In the facts of that case, commission of a cognizable offence was clearly made out and therefore, this court had passed the order in question. No such facts are emerging from the facts of this case as discussed

hereinabove.

22. The petition, therefore, fails as being frivolous, misconceived and abuse of principal of law and therefore, the same is hereby dismissed with cost of Rs.25000 imposed upon the petitioner Party-in-Person.
23. Before parting with the present order, the conduct and demeanor of the petitioner Party-in-Person which is contemptuous by the very nature, is required to be taken note of for the necessary action. In the memo of petition, which has been affirmed by the petitioner Party-in-Person, the following averments are made:-

Page 4:

The opinion formed in the minds of the citizens at large is that the Hon'ble Supreme Court of India has been reduced to a blabbering formality with only illusions of power and majesty, unable to get its own orders implemented.

Page 5 & 6:

It is unfortunate that such impertinence gets encouraged by the order of this Hon'ble Court itself in Special Criminal Application No. 2589 of 2023, which, in para 4 agrees with the contention is raised, but then, in the very next paragraph shoots the messenger The dichotomy of the citizens, the sovereigns, holding the Hon'ble Apex Court in the highest regard while the Courts as well as the Executive denigrate it is out in

the open.

3.(A) Are the orders passed by the Constitution Bench of the Hon'ble Supreme Court of India of any consequence whatsoever to either this Hon'ble Court, which is a Constitutional Court, or even to the Executive?

3.(B) Should this Hon'ble Court be making efforts to see that directions, orders and judgments, passed by the Hon'ble Apex Court, including its Constitution Bench, are followed in toto, and executed in letter and in spirit, or should it be shooting the messenger by deprecating his efforts to point out the lacunae?

3.(C) Instead of following final directions of the Hon'ble Apex Court contained in para 111 of the Lalita Kumari Judgment, can this Hon'ble Court, regurgitate, re-appreciate, review and discuss the arguments forwarded in para 20, of the same judgment and order

Page 16:

However, in what can only be termed as a travesty of justice, this Hon'ble Court goes on to further record in para 5 of the same order that,

"5. In view of above legal position, such type of applications are unwarranted and it is nothing but abuse of process of the Court. It amounts to burden to the Court and the applicant here in may pursue before

the Court concerned without there being any reference to this Court."

Unfortunate as it is, it needs to be stated on record that such impertinence gets encouraged by the Constitutional Courts themselves with the sort of orders passed in Special Criminal Application No 2589 of 2023.

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5.18. Because the fact that no F.I.R. has been lodged by the Station House Officer of Dumas Police Station despite a complaint disclosing the commission of cognizable offences displays in all its glory, how a judgement of even the Constitutional Bench of the Hon'ble Supreme Court of India, can be rendered completely impotent and reduce the Hon'ble Apex Court to a powerless, blabbering formality with only illusions of grandeur and majesty.

Page 30:

(D) pass a reference to the Hon'ble Supreme Court of India with regard to the contempt of court on the part of the Ld. Chief Judicial Magistrate (Mr. P. B. Patel) at Surat who has passed the impugned order dated 30.06.2023 in CrMA J/2/2023.

(E) pass appropriate orders to send the Ld. Chief Judicial Magistrate (Mr. P. B. Patel) at Surat who has passed the impugned order dated 30.06.2023 in CrMA

J/2/2023 for training since he seems unaware of the law of the land, is not only not up to date with judgments which are over 13 years old, but also displays the propensity to misread and misinterpret the directions of none less than the Hon'ble Supreme Court of India;

24. During pendency of the present petition before this Court, the petitioner had addressed the letter dated 19.04.2025 to the Hon'ble Judges of the Hon'ble Apex Court with a copy of the said letter to the Hon'ble Chief Justice of this Court. In the said letter, it is mentioned by the petitioner as under:-

It is thus that I approached the High Court of Gujarat under Article 226 of the Constitution of India with Special Criminal Application No. 5144 of 2021 on date 27.04.2021 for lodging of F.I.R. on the basis of a complaint made by me. After almost 18 months on 19.09.2022, the matter came to be dismissed. Notably, para 3 of the order reads, "...In such circumstances, the party in person, filed a complaint dated 14.01.2020 addressed to Commissioner of Police, Surat stating inter alia that, the developers constructed building in the vicinity of Surat Airport, submitted forged documents for obtaining NOC and building permission, thereby, committed the offences punishable under Sections 467, 468, 471, 471, 420 and 120(b) of IPC.". The Court itself points out that my

complaint disclosed the commission of cognizable offences. But it did absolutely nothing to correct the wrong of the police not lodging F.I.R.. Instead it asked me to approach the Magistrate under section 156(3) Cr.P.C.. This shows not only the scant regard that judges of even Constitutional Courts have for citizens that they have been appointed to serve. More distressingly, it shows their antipathy to pass orders against the mighty State. Not to mention, additionally this further burdens the (lower) judiciary for no reason and makes the citizen run around some more. A copy of the order dated 19.09.2022 passed in Special Criminal Application No. 5144 of 2021 is annexed hereto and is marked as Annexure - "A".

That not only has the law of the land been thrown to the winds, but also that this is utter, brazen contempt of (2014) 2 SCC 1 Lalita Kumari versus State of Uttar Pradesh & Ors, is of no consequence; what emerges is that the State must be protected against the citizen at all costs!

Since I felt this anomaly needed to be corrected, I approached the Hon'ble Supreme Court by way of Special Leave Petition (Criminal) No. 10149 of 2022. The Supreme Court too found no infirmity in the judgment. This, in a case where not only had the law of the land been thrown to the winds, but also that this was an utter, brazen contempt of (2014) 2 SCC 1

Lalita Kumari versus State of Uttar Pradesh & Ors. This again only buttresses that the Courts seem loathe to act against the State even when the law has been violated.

I have appealed to the High Court of Gujarat against this order vide Special Criminal Application No. 8358 of 2023, which was filed on 03.07.2023 and registered on 05.07.2023. When it was called out for hearing on 20.07.2023, Hon'ble Mr. Justice Samir J. Dave was pleased to recuse himself, without assigning reasons. Thankfully, I may add; I was not sure of getting justice from a Judge who has quoted the Manusmriti in the open court, even if orally without recording it.

Also, I had in the meantime approached the Supreme Court of India under Article 32 of the Constitution of India by way of Writ Petition (Criminal) No. 149 of 2023. That petition too came to be dismissed in less than 20 seconds, without I being heard even if the order says otherwise. That a petition running into a total of 275 pages without the Interlocutory Applications. filed under Article 32 of the Constitution of India comes to be dismissed without even a whiff of the submissions made, speaks for itself. I choose not to say anything more because my opinion, formed on the basis of my personal experience with the Presiding Judge of that Bench, is best left unstated.

In these circumstances, the words of addressee No. 4 herein do ring true: "We have no right to say common man has faith in the judiciary". But having said that, whether any of you addressees, including Addressee No. 4 herein do anything to correct the situation remains to be seen.

25. He has also addressed another letter dated 12.04.2024 to the Registrar (Judicial) of this Court wherein it is mentioned as under :-

"After being made to literally beg of the Ld. Court master, he showered his benevolence upon me by granting me a date 15 days away on 15.04.2024, on which date the matter has come to be listed at Sr. No 336, adding insult to injury. I do not need to point out that on an average, about 80 matters get heard on merits; I fail to see the point in listing a matter at Sr. No. 336, unless it is only to create a record of listing a matter without any intent to hear it.

Obviously, there is something very wrong either in the Registry or in the Court of Hon'ble Mr. Justice H. D. Suthar that I, vide this letter, implore you to address and rectify. In the alternative, if for whatever reason, Hon'ble Mr. Justice H. D. Suthar is not inclined to even hear the matter, he may pass an appropriate judicial order to release the matter from his board. That way, at least I will have some hope for justice, and I will not

lose complete faith in the institution.”

26. The petitioner while addressing this Court during the course of hearing of the present petition which had taken place on 16.01.2026 had contended that and raised a question as to whether *the Hon'ble judges be permitted to continue the injustice being inflicted upon the citizen under the cover of alternate remedy*. He further contended that *“I'm sorry to say but the general opinion is that the Hon'ble Supreme Court passes orders which it is unable to get executed. Lalita Kumari for example.*
27. He, thereafter, contended that *“So it is rather distressing that while one constitutional court shows the proactiveness to address the issues pertaining to public safety, another constitutional court flagrantly disregards the law thereby ensuring that not even an F.I.R. is lodged.”*
28. When this Court countered the petitioner Party-in-Person as to whether he was making allegations against the Court, he reaffirmed that he was stating merely the facts which were emerging from record. He further stated that these facts were already pointed out in Special Criminal Application No.5144 of 2022. From the aforesaid it appears that a disgruntled litigant after having failed to obtain favourable orders from the institution is out to defame the august institution. By making the averments in the petition as well as the remarks made by the petitioner during the course of hearing before this court are made with an intention to lower the dignity of the institution at

large. This conduct on the part of the petitioner is nothing short of contempt of Court of not only this court but also of the Hon'ble Supreme Court as well of the learned trial court. Therefore, a notice is directed to be issued against the petitioner Vishwas Sudhanshu Bhamburkar calling him to explain as to why the proceedings under the Contempt of Courts Act should not be initiated against him. The Registry shall thereafter place the matter before the bench assigned the roster for the subject. From the facts stated herein above, this Court is also of the view that the competency certificate issued by the Registry in favour of the petitioner Party-in-Person allowing him to appear before this Court in-person needs to be revisited.

29. Both the Criminal Misc. Applications stands disposed of accordingly.
30. The Registry shall forthwith send a copy of this judgment to the Registrar General of the High Court for necessary action.
31. The Party-in-Person is not present when the matter is pronounced.
32. The Live Streaming Video, which is ordered to be preserved in the "Pen Drive" vide letter dated 19.01.2026, is ordered to be placed on the record of this file.