

**HIGH COURT OF GUJARAT**

**HASMUKHBHAI SHANTILAL PATEL**

*Versus*

**STATE OF GUJARAT**

**Date of Decision:** 19 August 2013

**Citation:** 2013 LawSuit(Guj) 2683

**Hon'ble Judges:** [Akil Kureshi](#)

**Case Type:** Criminal Miscellaneous Application

**Case No:** 10131 of 2008

**Subject:** Criminal

**Acts Referred:**

[Indian Penal Code, 1860 Sec 420, Sec 114, Sec 418](#)

**Advocates:** [Chirag Patel](#), [R C Jani](#), [Hansa Punani](#)

**Akil Kureshi, J.**

**[1]** . Petitioners are original accused. They seek quashing of complaint Annexure A filed by the respondent No.3 Bank of Baroda.

**[2]** Brief facts are as follows :-

2.1 Petitioners, husband and wife respectively, held a savings Bank Account in the respondent No.3 Bank. They are residents of Canada. They had deposited various amounts in their said savings Bank account No.104094 totaling to Rs.3,92,429/- in the month of October, 2010. It is the case of the Bank that by mistake, while giving credit of the said amount, much larger amount was reflected in the bank account of the petitioners. In the later half of the month of October 2010, knowing fully well that their bank account did not have certain credits, the petitioners withdrew a sum of Rs.7 Lacs far in excess of the legitimate credit in their account. The Bank thereupon having failed to pursue the petitioners to return the amount with interest, filed above noted FIR dated 28.3.2005 before J.P. Road Police Station, Vadodara alleging commission of offences punishable under Sections 420, 418 read with Section 114 of IPC.

**[3]** It appears that before filing of the quashing petition, the petitioner No.1 had written a letter to the Manager of respondent No.3 Bank on 21.7.2008 conveying that out of the total sum of Rs.13 Lacs demanded by the Bank, Rs.7,84,000/- has already been deposited before the concerned Police Station. Remaining amount of Rs.5,16,000/- would be deposited within 7 days. It was, of course, conveyed that the petitioners were not responsible for commission of any offence.

**[4]** It appears that such further sum of Rs.5,16,000/- was not deposited by the petitioners. It was, therefore, on 19.7.2013, this Court noted as under :-

Heard learned advocate Mr.Chirag B. Patel for the applicants. Learned advocate while inviting attention of the Court to page 40, wherein it is mentioned that the remaining amount of Rs.5.16 lacks will be deposited within seven days, submitted that he will like to have some time to take instructions from his client to see that the said amount is deposited at the earliest. The matter is adjourned.

**[5]** Today when the matter was taken up, learned counsel for the petitioners once again stated that the petitioners have not deposited such remaining amount.

**[6]** From the above, it appears that at some stage, the Court was perhaps trying to find a solution and to ascertain whether the entire amount withdrawn by the petitioners in excess of their entitlement with interest has been repaid or not. If so done, the Court would have perhaps looked at the quashing petition from a different angle. Admittedly, substantial amount is not repaid and in any case, learned counsel for the Bank submitted that the Bank has not compromised the issue with the petitioners and is unlikely to condone the offences allegedly committed.

**[7]** Under the circumstances, I have heard learned counsel for the parties with respect to their request for quashing of the complaint. Allegations, no doubt, clearly reveal prima facie commission of offences punishable under the IPC. It is not a case where even if the allegations are taken on the face value, it can be stated that no offence is disclosed. Without, therefore, expressing opinion on the pending complaint which shall be investigated and thereafter proceeded in accordance with law upon completion of investigation, this quashing petition is dismissed. Rule discharged. Interim relief vacated.