

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 1066 of 1984

with

CRIMINAL REVISION APPLICATION No 4 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 No.

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STATE OF GUJARAT

Versus

RAJU BHIMARAM KHATI

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Appearance:

1. Criminal Appeal No. 1066 of 1984

MR.S.A.PANDYA, ADDL., PUBLIC PROSECUTOR for the  
appellant .

Respondent served.

2. Criminal Revision Application No 4 of 1985

MR.S.A.PANDYA, ADDL. PUBLIC PROSECUTOR for the  
Petitioner.

Respondent served.  
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CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 30/10/96

## ORAL JUDGEMENT

The State of Gujarat has filed the present appeal challenging the judgment and order dated 21st May 1984 passed by the learned Chief Metropolitan Magistrate, Ahmedabad, in Criminal Case No.587/84 acquitting the respondent for the alleged offence punishable under section 12-A of the Gambling Act. By the impugned order, the learned Magistrate not only acquitted the respondent but has also directed the complainant to pay Rs.100/- by way of compensation to the respondent.

The complainant Harishanker Purtulal , who is the First Grade Constable, filed a complaint alleging, inter alia, that on 16-2-84 at about 22.15 hours, the respondent was found below Fernandize bridge and was accepting Verli Mataka batting from the customers. On the basis of the prior information received by the complainant, the complainant caught the respondent red handed in presence of the Pancha and recovered an amount of Rs.1/- for the batting noted on the slip of empty cigarette box. It is the case of the complainant that the number was, in fact, noted on the slip and accordingly a Panchnama was also prepared. The learned Magistrate, who tried the case, was of the view that a false case has been filed against the respondent as the slip contained certain other numbers of batting. The learned Magistrate has therefore recorded a finding that as the respondent was caught red handed, the slip could not have contained any other number and as other numbers were found on the slip, the conclusion would be that the respondent was falsely involved in the case. Having gone through the judgment of the learned Magistrate, I am of the view that the learned Magistrate has correctly recorded the finding in favour of the respondent and has rightly acquitted him. Since the respondent was falsely involved in the case, the learned Magistrate was also justified in passing the order of compensation of Rs.100/- to be paid by the complainant to the accused. There being no substance in the appeal, the same fails and is dismissed.

In view of the aforesaid , Criminal Revision Application No.4 of 1984 does not survive and it also stands disposed of accordingly.

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