

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 806 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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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?

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ASMAL @ ISMAIL IBRAHIM PATALA

Versus

PRAFULLA JADEJA (GAS)

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Appearance:

MR BG JANI for Petitioner

MR DN PATEL for Respondent No. 1, 2

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 29/08/97

ORAL JUDGEMENT

Leave to amend.

1. The petitioner, an externee under the impugned order dated 29/3/1997 (Annexure : D) passed by Respondent No.1, has preferred this petition challenging the said order as well as the Appellate Order dated 15/5/1997 (Annexure : E) passed by the respondent no.2

in appeal.

2. The proceedings of externment started pursuant to notice dated 13/12/1996 issued u/S. 59 of the Bombay Police Act, 1951. The said show cause notice refers to 6 cases of Karjan Police Station under the different provisions of the Indian Penal Code and two chapter cases under the provisions of sec. 110 of the Criminal Procedure Code also registered in Karjan Police Station. However, the same does not refer to any material or cases with regard to sale of land by plotting them unlawfully and to possession of weapons without licence which have been referred to in the impugned order of externment. The ground of challenge against the impugned order in this respect is contained in ground (W) of the petition. It has been submitted from the said grounds that there is a violation of natural justice in as much as the aforesaid material has not been set out in the show cause notice, as the same has been considered by the externing authority while passing the impugned order of externment. It has also been submitted that the externing authority has acted on extraneous material. Thus, it has been submitted that in any view of the matter, the impugned order of externment cannot stand.

3. Mr. D.N. Patel, Ld. A.P.P. for the respondents has verified the facts contained in the aforesaid ground and has fairly submitted that the aforesaid material with regard to illegal dealings in land and unlawful possession of arms/weapons have not been shown in the show cause notice. The result is that this petition shall have to be allowed on the aforesaid grounds of challenge contained in the petition.

4. In view of what is stated above, this Special Criminal Application is allowed. The impugned order of externment dated 29/3/1996 and the order of confirmation passed in Appeal by the Appellate Authority on 15/5/1997 are hereby quashed and set aside. Rule made absolute accordingly.

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