

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 589 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes
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?
2 to 5 No

STATE OF GUJARAT

Versus

MAHAMAD ALI MALLU

Appearance:

Mr.AJ Desai, APP for Petitioner
MR SAURIN A SHAH for Respondents

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 31/03/98

ORAL JUDGEMENT

Heard learned APP Mr. A.J. Desai for the petitioner State. Rule. Learned Advocate Mr.Saurin A. Shah appearing for respondents No. 1 to 5 has waived service of rule.

2. Being aggrieved and dissatisfied by the Order passed by learned Additional Sessions Judge, Bharuch,

dated 23.10.1997, in the proceedings of Session Case No. 92 of 1997, the State of Gujarat as petitioner has filed the present Revision Application.

3. That the respondents No. 3, 4, 5 are charged for the offences made punishable under Section 147, 148, 302 and 504 of IPC and also under Section 135 of Bombay Police Act before the Court of learned Additional Sessions Judge, Bharuch, in Session Case No. 92 of 1997. That pending the proceedings of trial, present petitioner as a prosecutor moved an application contending that as per the evidence recorded by the court and material produced on record, present respondent No.1 Mahamad Ali Mallu and respondent No.2 Maulavi Usman Mahamad Bux are also involved in the commission of above stated offences, in which respondents No. 3, 4 and 5 are being tried. That said evidence being prima facie evidence against respondents No. 1 and 2, it was prayed that respondents No. 1 and 2 may be impleaded as accused in Session Case No. 92 of 1997 under Section 319 of Cr.P.C. That the learned Additional Sessions Judge heard the application and rejected the same by impugned order.

4. Learned APP Shri A.J. Desai has taken me through the order passed by learned Additional Sessions Judge and has submitted that as per the oral statement recorded of the witnesses, there is a prima facie evidence involving present respondents No. 1 and 2 in commission of said offences and thereby under Section 319, respondents No. 1 and 2 were required to be impleaded as accused in the Session Case No. 92 of 1997.

5. I have carefully gone through the order which is produced on record vide page 8 to 13 of the compilation. In my opinion, there is no jurisdictional error or any procedural illegality resulting into miscarriage of justice. Learned Additional Sessions Judge appears to have dealt with the matter logically and on a sound proposition of law. Hence, I do not find any reason to interfere with the said order.

6. As a result of above stated discussion, petition fails and the same stands disposed of as rejected. Rule is discharged. No costs. Interim relief granted earlier stands vacated.

p.n.nair