

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 386 of 1993

For Approval and Signature:

HON'BLE MR.JUSTICE D.C.SRIVASTAVA sd/-

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
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? : NO

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MOHANBHAI GOVINDBHAI SAGAR

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Revision Application No. 386 of 1993
MR YOGESH S LAKHANI for Petitioner No. 1
MR HH PATEL, A.P.P. for Respondent No. 1
MR PN BAVISHI for Respondent No. 2
MR G.S.VYAS, REPRESENTING SHRI DN PANDYA,
REPRESENTED FOR CHIRAG S.JOSHI & SHASHIKANT JOSHI
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CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 29/06/2001

ORAL JUDGEMENT

1. Complainant Mohanbhai Govindbhai Sagar has filed
this Criminal Revision Application against the Judgment

and order dated 27.7.1993 of Additional Sessions Judge, Bhavnagar, under which he has acquitted the accused - respondent No.2 herein u/s.302 of Indian Penal Code. The main grievance of the complainant revisionist is that he engaged two Advocates of Bhavnagar, viz. Shri Chirag Shashikant Joshi and his father Shishakant J. Joshi to assist him in effective prosecution of the accused, but these two Advocates did not render adequate advise and that the witnesses who were relatives of the deceased were not examined and ultimately in a hurried manner the trial was concluded and the accused - respondent No.2 was acquitted.

2. Notices were issued to Shri Chirag S. Joshi and Shri Shashikant J. Joshi, Advocates. They have filed detailed Affidavits. These Affidavits have been examined. Both the Advocates have denied that they were engaged by the complainant - revisionist in the Court of Additional Sessions Judge and on examination on record their Vakalatnama was not found. They have also deposed that they did not enter in any talk with the respondent No.2 nor there was any occasion for them to render any advise or assistance to the respondent No.2 inasmuch as they were never engaged by the respondent No.2 nor they filed Vakalatnama on behalf of the revisionist. No counter Affidavit has been filed by the complainant denying the averments made in the Affidavits of Shri Chirag S. Joshi and Shri Shashikant J. Joshi, Advocates. There is then no reason to disbelieve the Affidavits filed by them.

3. Shri Y.S.Lakhani for the revisionist. Shri H.H.Patel, learned A.P.P. for respondent No.1, Shri P.N.Bavishi for respondent No.2 and Shri G.S.Vyas, representing Shri D.N.Pandya, who represents Shri Chirag Shashikant Joshi and Shri Shashikant J. Joshi, have been heard and the Judgment under revision has been examined.

4. It appears that all material eye witnesses have turned hostile. The grievance of the revisionist that other witnesses who were relatives of the deceased were not examined inspite of the fact that the notices were served on them. Even if they would have been examined the ultimate result of the trial could not have different because those witnesses were not eye witnesses. The Eye witnesses did not support the prosecution and turned hostile. As such the learned Addl. Sessions Judge was left with no option but to acquit the accused respondent No.2.

5. I do not find any reason to interfere in this

revision, which is hereby dismissed.

sd/-

Date : June 29, 2001 (D. C. Srivastava, J.)

sas