

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION NO.745 OF 1999

For Approval & Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not ?
3. Whether their lordships wish to see the fair copy of the judgment ?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
5. Whether it is to be circulated to the Civil Judge?

THE STATE OF GUJARAT
VERSUS
TALATI AHERHUSEN FAKRUDDIN SAIYED & ANR.

Appearance:

MR SAMIR DAVE APP FOR PETITIONER
MR SK BUKHARI FOR RESPONDENT NO.1
MR PR THAKKAR FOR RESPONDENT NO.2

Coram: MR.JUSTICE S.K. Keshote,J

Date of decision: 28/2/2001

C.A.V. JUDGMENT

#. Heard the learned counsel for the parties.

#. The facts of the case are that the first information report bearing No.177/95 came to be lodged with Raopura Police station by one Mr.R.P.Jadav, Circle Officer of Mamlatdar Office, in connection with offence u/s.120B, 167, 177, 182, 193, 196, 199, 200, 209, 465, 471, 474 of Indian Penal Code. The learned Second Joint Judicial Magistrate First Class, Vadodara, was pleased to discharge the accused under his order dated 30th September, 1997. Being aggrieved and dissatisfied of the order of the learned trial court, the State of Gujarat preferred revision application No.136/98 which came to be rejected vide order dated 28.6.99 by the Joint Sessions Judge, Vadodara, vide order dated 28.6.99. Hence this special criminal application under Article 227 of the Constitution.

#. The learned counsel for the petitioner, with all vehemence at his command, contended that the Judicial Officer of the rank of the Joint Sessions Judge, has decided a serious matter in a most cursory and casual manner. He submitted that the learned Joint Sessions Judge, Vadodara, though made reference to the decision of this court reported in 1997(3) GLR 2501 in the case of Miteshchandra Manilal v. State of Gujarat, he has not disclosed and given out the reasons how the three decisions of the Hon'ble Supreme Court on which reliance has been placed by the State are not applicable to the facts of that case. He further submits that though three decisions have been cited which is clearly borne out from the reading of the judgment, of the Hon'ble Supreme Court by the AGP appearing for the State of Gujarat, the Sessions Judge, Vadodara, made reference to only two decisions. Mr.Samir Dave, APP, urged that the decision of this court on which reliance has been placed by the learned Joint Sessions Judge, Vadodara is not a good law in view of the decision of the Hon'ble Supreme Court. He has also cited few other decisions of the Hon'ble Supreme Court.

#. The learned counsel for the respondents supported the order passed by the Joint Sessions Judge, Vadodara.

#. Having heard the learned counsel for the parties, I am satisfied that this Joint Sessions Judge, Vadodara, has taken the matter in a most cursory and casual manner. Being a senior officer, it is not expected from him to decide such a serious matter in such a cursory and casual manner. It is a matter of general complaint that corruption amongst the officers and employees of the

Government is rampant but still in the matters where there are charges of corruption, the court takes them lightly and casually. This case appears to be of that category where the officer of the cadre of the Joint Sessions Judge, Vadodara, has taken the matter in most cursory and casual manner. It appears to be a case where that officer has proceeded only on one sided manner. The order of the learned trial court, whereunder the accused, a talati-cum-mantri who was in the Government service, was chargesheeted for serious offence of tampering with the Government record was discharged. It is clear from the judgment of the Joint Sessions Judge, Vadodara, that out of the three decision, only two have been referred. Those two decisions which have been referred have not been discussed at all. He has not given out even single reason how these decisions are of not relevance or help to the prosecution in the case. This order of the learned Joint Sessions Judge is a perverse order and it cannot be allowed to stand.

#. As a result of aforesaid discussion, this petition succeeds and the same is allowed. The order of the Joint Sessions Judge, Vadodara, dated 28th June 1999, passed in Criminal Revision Application No.136/98 is quashed and set aside. The matter is remanded to the revisional court with directions to decide the same on merits after considering all the contentions and the authorities cited by the counsel who appears for the parties. Rule is made absolute accordingly. In the facts of the case, no order as to costs.

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(sunil)