

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 272 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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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 concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

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ABID ALI GULAM MOHAMMED MOMIN

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Revision Application No. 272 of 2002
MR MM TIRMIZI for Petitioner No. 1
MR PR ABICHANDANI, APP, for Respondent No. 1
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CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 30/08/2002

ORAL JUDGEMENT

1. The revisioner herein came to be convicted by learned Metropolitan Magistrate, Court No.9, Ahmedabad, for offences punishable under Section 467, 468 and 471 of Indian Penal Code and was sentenced to undergo rigorous imprisonment for one year and to pay a fine of

Rs.2000/and, in default in payment of fine, to undergo simple imprisonment for three months. The judgment was rendered on July 31, 1998 in Criminal Case No.519 of 1994. The said judgment and order was challenged before the City Sessions Court, Ahmedabad, by preferring Criminal Appeal No.107 of 1998. The said appeal appears to have to been partly allowed by setting aside the conviction under Section 468 of Indian Penal Code and confirming the conviction under Section 467 and 471 of Indian Penal Code. The learned Additional Sessions Judge, Court No.11, Ahmedabad, awarded a sentence of six months' rigorous imprisonment for offence punishable under Section 467 of Indian Penal Code with a fine of Rs.1000/- and, in default, to undergo simple imprisonment for one month. Rigorous imprisonment for a period of six months was awarded for offence punishable under Section 471 of Indian Penal Code with a fine of Rs.1,000/- and, in default, to undergo simple imprisonment for one month. The sentences were ordered to run concurrently. The said judgment was rendered on 19th June, 2002. During the trial as well as during pendency of the appeal, the revisioner was on bail except for an initial period of seven days. He was taken in custody on 19th June, 2002, upon pronouncement of judgment in Criminal Appeal, the judgment and order which is impugned herein, and since then, he is in jail.

2. The revisioner is convicted on a charge of having forged/fabricated mark sheet of University in his favour on basis of mark sheet of some other person.

3. Learned Advocate Mr. Tirmizi appearing for the revisioner has submitted that the revisioner does not press this revision on question of conviction, but it is more or less in the form of a petition for a period for grant of probation. It appears that, before the earlier Bench also, similar request was made and report of the Probation Officer was called for.

4. The report of the Probation Officer is before this Court. The report indicates that there are no criminal antecedents of the revisioner or anyone from his family. The family seems to be educated. One of his brothers is settled in America. The Revisioner has lost his father. The revisioner repents for what he has done and, if he is given an opportunity to improve by granting him probation, the object of the Probation of Offenders Act would be served and it is, therefore, recommended to grant the benefit of Probation of Offenders Act.

5. Learned Additional Public Prosecutor Mr.

Abichandani has, in all fairness, submitted that appropriate orders may be passed considering the report of the Probation Officer.

6. Taking an overall view of the case considering the circumstances in which the offence is committed, it clearly is a case of an action of a misdirected youth and opportunity has to be afforded. This Court is, therefore, inclined to accept the report of the Probation Officer and grant the benefit of probation to the revisioner.

7. The revisioner shall be released from jail on his executing a bond of Rs.5000/- of good conduct and to appear and receive the sentence for a period of two years with a surety of like amount. The revision application is accordingly disposed of. Rule is discharged.

8. Direct service is permitted.

[A.L. DAVE, J.]

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