

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 7412 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed : YES  
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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ASGAR YUNUS

Versus

STATE OF GUJARAT  
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Appearance:

1. Criminal Misc.Application No. 7412 of 2001  
MR PRAVIN GONDALIYA for Petitioners No. 1-4  
MR VIPUL PANCHOLI, APP for Respondent No. 1  
..... for Respondent No. 2  
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CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 31/01/2002

ORAL JUDGEMENT

1. This petition is filed under Section 482 of CrPC  
for quashing the complaint registered as Prohibition CR  
No. I.143/2001 with Santrampur Police Station, District:  
Panch Mahals. While issuing the Rule, this Court had

directed the Investigating Agency by way of interim relief to consider the case of the petitioners for release of the stock of goods, gur seized in connection with the aforesaid offence as well as of muddamal vehicle i.e. Muddamal Truck bearing No. HR-55-9745. During the course of submissions, ld. counsel Mr. Gondalia for the petitioners has submitted that the Investigating Agency has handed over the truck and goods seized by acceding to the request made by the petitioners as the muddamal truck was carrying rotten gur from Haryana to Maharashtra and it was simply to pass through the State of Gujarat as national highway passes through the State of Gujarat.

2. Responsible Officer of Investigating Agency is present before this Court. Ld. APP Mr. Pancholi has submitted that the muddamal seized has been handed over to the petitioners by the Investigating Agency and the Investigating Agency is satisfied that the material seized by the police during the course of investigation was not to be off-loaded within the territories of State of Gujarat and, therefore, appropriate orders can be passed in view of settled legal position.

3. It is an admitted position that in similar such circumstances, complaints have been quashed by this Court in number of petitions filed before this Court under Section 482 of CrPC. I would like to mention some of them herein below :-

- (i) Misc. Criminal Application No. 482 of 1995, decided on February 10, 1995 by the Court (Coram: R.A. Mehta,J );
- (ii) Special Criminal Application No. 1222/91, decided on September 6, 1991 by the Court (Coram: J.U. Mehta,J );
- (iii) Misc. Criminal Applications Nos. 2785/91, 2786/91 & 2787/91 all decided on August 25, 1993, by the Court ( Coram: N.J.Pandya, J );
- (iv) Misc. Criminal Application Nos. 4472, 4473, 4488, 4489 and 4490 all of 1993, decided on September 3, 1993, by the Court (Coram : N.J. Pandya,J );
- (v) Misc. Criminal Application No.6715 of 1997 decided on November 24, 1997, by the Court (Coram: N.N. Mathur,J ).

4. Ld. counsel Mr. Gondalia has also pointed out that even this Court has also passed similar orders. Considering the facts and circumstances of the case and having regard to different orders passed by this Court quoted herein above, this application requires to be

allowed. Hence, the following order is passed :-

5. (i) Prohibition CR No. I.143/2001 registered  
with Santrampur Police Station, District:  
Panch Mahals, is hereby quashed;
- (ii) The muddamal goods attached from the  
Truck in question shall not be stored or  
used or consumed or sold in Gujarat  
Territory, and shall be taken to the  
place of its destination;

6. Rule is made absolute accordingly.

31.1.2002 [ C.K. BUCH, J ]

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