
(1991) 02 GUJ CK 0005
In the Gujarat High Court

Bimalbhai Amratbhai Thadesar

APPELLANT

Vs

Chetan Ambalal Shah and Another

RESPONDENT

Date of Decision : 05-02-1991

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 401
Penal Code, 1860 (IPC) — Section 324, 324

Citation : (1991) 2 GLR 835

Hon'ble Judges : J.U. Mehta, J

Bench : Single Bench

Judgement

J.U. Mehta, J.—The present petitioner who is the original complainant before the Police has approached this Court by this revision from the judgment and order of acquittal dated 8-3-1984 passed by the learned Metropolitan Magistrate, Court No. 2, Ahmedabad in Criminal Case No. 1026 of 1983.

2. It is the case of the prosecution that on 17-5-1983, the complainant and two prosecution witnesses, viz. Prakash and Sanjay were standing near a Pan Galla situated in front of the Raghukul Society. Prakash asked the accused as to why he had come and the accused told not to talk about him and further told that he was a Dada. According to the prosecution, on the next day, i.e., 18-5-1983 at about 9-15 to 9-30 p.m. when the complainant and the prosecution witnesses, viz. Prakash and Sanjay were standing at the Pan Galla, the accused with two other persons came in an auto-rickshaw. The accused Chetan was armed with a knife and another person was armed with an iron-pipe and the third one was armed with an iron-chain. As per the say of the prosecution, the accused gave a knife-blow on the wrist of the left hand of the complainant and also the accused caused injury with a knife on the shoulders of the prosecution witness Prakash. A chain-blow was given to prosecution witness Sanjay. Many persons collected there and, therefore, the accused and two other persons ran away. The complainant was treated in the Civil Hospital. Thereafter, the Police recorded the complaint. After investigation, charge-sheet against the accused was submitted for the offence u/s 324 of I.P.C. The learned Metropolitan Magistrate recorded the

plea of the accused wherein the accused pleaded not guilty to the charge. After recording the evidence, the learned Metropolitan Magistrate acquitted the accused.

3. Being aggrieved by the said judgment and order of acquittal, the complainant before the Police has approached this Court in revision.

4. The learned Advocate for the petitioner submitted that the trial Court had not properly appreciated the evidence of the injured witnesses and, therefore, the order of acquittal be set aside and the case be sent back for retrial.

5. Mr. D.K. Trivedi, learned Public Prosecutor for the State submitted that the jurisdiction of the High Court u/s 401 of Cri. Pro. Code is limited. In the present case, the State has not preferred any appeal and, therefore, this Revision Application should not be entertained.

6. In my opinion, there is much force in the argument advanced by the learned Public Prosecutor, Mr. D.K. Trivedi. The revisional jurisdiction, when invoked by a private complainant against an order of acquittal, can be exercised only in exceptional cases where the interests of public justice require interference for the correction of a manifest illegality or the prevention of a gross miscarriage of justice. The revisional jurisdiction cannot be invoked merely because the lower Court has not appreciated the evidence properly. In my opinion, a different view of the evidence could have been taken but that is not enough to justify interference in revision when there is an application by a private party to set aside an order of acquittal. It must be remembered that no right of appeal is conferred in such cases though there is provision for appeal against acquittals and therefore, the Court must exercise the revisional powers very sparingly.

7. The view which I am taking is supported by the judgments of the Supreme Court in the case of Pakalapati Narayana Gajapathi Raju and Others Vs. Bonapalli Peda Appadu and Another, and in the case of Dhirendra Nath Mitra and Another Vs. Mukanda Lal Sen, .

8. In view of the above settled legal position, this Criminal Revision Application is dismissed. Rule is discharged.