

(2010) 12 GUJ CK 0057
In the Gujarat High Court

Case No : Special Criminal Application No. 2441 of 2010

Jayesh Khodidas Patel

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 30-12-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Penal Code, 1860 (IPC) — Section 114, 120B, 406, 409, 420

Citation : (2010) 12 GUJ CK 0057

Hon'ble Judges : Mukesh R. Shah, J

Bench : Single Bench

Advocate : Bharat K. Dave, for the Appellant; K.P. Raval, Assistant Public Prosecutor for Respondent 1, for the Respondent

Final Decision : Allowed

Judgement

M.R. Shah, J.—Rule. Shri K.P. Raval, learned Additional Public Prosecutor waives service of notice of Rule on behalf of Respondents. In the facts and circumstances of the case and with the consent of learned advocates appearing on behalf of respective parties, petition is taken up for final hearing today.

2. Present petition under Article 226 of the Constitution of India has been preferred by the Petitioner - original complainant to direct Respondent No. 2, Commissioner of Police, Ahmedabad City to initiate inquiry against Respondent No. 2, Joint Commissioner of Police, Zone 1, Ahmedabad and others who are involved with him for the charges alleged by the Petitioner in the present petition.

2.1 It is further prayed to transfer the investigation of FIR being C.R. No. I 561/2006 registered with Naranpura Police Station to CID (Crimes), State of Gujarat.

3. A grievance which is voiced in the present Special Criminal Application is that though an FIR has been registered at Naranpura Police Station being C.R. No. I 561/2006, as far back as on 13.09.2006, against the accused person named in

the said FIR for the offences under Sections 406, 409, 420, 467, 468, 471, 474, 120B, 114 and 506(2) of the IPC and though the charge-sheet came to be filed against only few accused persons and though other accused persons inclusive of original accused No. 1 was shown to be absconding, there is no further investigation against the accused persons and the investigation which has been subsequently handed over to the Assistant Commissioner of Police is being done in wrong direction with a view to not only help the absconding persons but also those accused persons who are already charge-sheeted. Therefore, it is requested to transfer the investigation to CID (Crimes), Ahmedabad.

4. Shri K.P. Raval, learned Additional Public Prosecutor has produced on record the report submitted by the investigating officer and considering the same, this Court is prima facie of the opinion that further investigation and/or investigation being carried out by the present investigating officer i.e. Assistant Commissioner of Police is not in fair and impartial manner and the same seems to be in wrong direction to help the absconding accused persons and even those accused persons who are already charge-sheeted. Considering the report submitted by the investigating officer i.e. Assistant Commissioner of Police, even Shri Raval, learned Additional Public Prosecutor is not in a position to say anything against transfer of investigation to CID (Crimes) and to take investigation back from the present investigating officer.

5. In view of the above and for the reasons stated above, the petition succeeds and the investigation of FIR being C.R. No. I-561/2006 registered with Naranpura Police Station is hereby ordered to be transferred to CID (Crimes) so far as the rest of the accused persons who are yet not charge-sheeted are concerned and the CID (Crimes), Ahmedabad is hereby directed to hold the investigation / further investigation of the aforesaid case and submit appropriate report/charge sheet/supplementary charge-sheet before the concerned Magistrate immediately but not later than three months from the date of receipt of the present order. Rule is made absolute accordingly. Direct service is permitted.