

(1963) 09 GUJ CK 0017
In the Gujarat High Court

Narotamdas Bhikhabhai

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 02-09-1963

Acts Referred:

Penal Code, 1860 (IPC) — Section 409
POST OFFICE ACT, 1898 — Section 55, 72

Citation : (1965) CriLJ 165

Hon'ble Judges : V.B. Raju, J

Bench : Single Bench

Judgement

V.B. Raju, J.—The applicant, who is a post-master was convicted u/s 409, I. P. C. and Section 55 of the Indian Post Office Act. The conviction u/s 55 of the Indian Post Office Act is set aside In view of Section 72 of the said Act and in view of the fact that there was no complaint but only a report of the Police Officer u/s 173 Cr. P. Code. Such a report is not a complaint as laid down in Section 4(1) (h) of Cr. P. C.

2. The contention that a prosecution u/s 409 requires the sanction of the Central Government in view of the provisions of Section 197, Cr. P. C. is rejected, because the Post Master is not removeable by the Central Government but, as the learned Counsel admits, he is removable by the Post Master General. No other point of law is urged.

3. The conviction and sentence u/s 55 of the Indian Post Office Act are therefore set aside. Fine imposed under that section, if paid, should be refunded. The conviction and sentence u/s 409, I. P. C. are confirmed.