IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 249 of 2018

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ABHISHEK LALARAM SHAH & 2....Applicant(s)

Versus

STATE OF GUJARAT & 1....Respondent(s)

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Appearance:

MR PR ABICHANDANI, ADVOCATE for the Applicant(s) No. 1 - 3

MR DHARMESH DEVNANI, ADDL. PUBLIC PROSECUTOR for the Respondent(s) No. 1

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CORAM: **HONOURABLE MR.JUSTICE J.B.PARDIWALA**

Date : 16/01/2018

ORAL ORDER

The learned counsel appearing for the applicants – original accused nos. 3, 5 and 6 seeks to rely on the following observations made by the Supreme Court in the case of **N. K. Wahi Vs. Shekhar Singh & Ors. (2007) 9 SCC 481.**

> *"To launch a prosecution, therefore, against the alleged Directors there must be a specific allegation in the complaint as to the part played by them in the transaction. There should be clear and unambiguous allegation as to how the Directors are in-charge and responsible for the conduct of the business of the company. The description should be clear. It is true that prices words from the provisions of the Act need not be reproduced and the court can always come to a conclusion in facts of each case. But still, in the absence of any averment or specific evidence the*

> *net result would be that complaint would not be entertainable."*

Let notice be issued to the respondents, returnable on 11.04.2018. Mr. Devnani, the learned APP waives service of notice for and on behalf of the respondent no. 1 – State of Gujarat.

Let there be an ad-interim order in terms of paragraph 6(C) so far as the three applicants herein are concerned. Direct service is permitted.

(J.B.PARDIWALA, J.)

Bhoomi