

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION NO. 1857 of 2022**

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SUNIL SATYAPAL MEHTA

Versus

STATE OF GUJARAT

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Appearance:

MR MEHUL SHARAD SHAH(773) for the Applicant(s) No. 1
for the Respondent(s) No. 2

MR RB RAVAL APP APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI

Date : 28/02/2022

ORAL ORDER

Heard learned advocate, Mr. Mehul Sharad Shah for the petitioner.

It is mainly contended that *prima facie* the ingredients of the alleged offence punishable under Section 406 of the IPC are not made out in the complaint filed by the respondent no.2 and from the evidence, which was recorded prior to framing of the charge. Learned advocate has referred to the impugned order passed by the concerned trial court, copy of which is placed on record at Page No.132 of the compilation. It is further submitted that the ingredients of the alleged offence punishable under Section 406 of the IPC are not made out so far as the petitioner is concerned. Learned advocate has placed reliance upon the decision rendered by the Hon'ble Supreme Court in case of **S.K. Alagh Vs. State of Uttar Pradesh & Ors.**, reported in (2008) 5 SCC 662 and contended that the issue involved in the present petition is squarely covered by the said decision.

In view of the above submissions, **Notice** returnable on 4th July, 2022.

Learned APP waives service of notice for respondent – State of Gujarat.

Till next date of hearing, ad-interim relief in terms of Para No.9(C).

(VIPUL M. PANCHOLI, J.)

Gautam