

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 3373 of 2016

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GAUTAMBHAI CHANDULAL PATEL & 3....Applicant(s)

Versus

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

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Appearance:

MR. HARDIK J JANI, ADVOCATE for the Applicant(s) No. 1 - 4

MR JK SHAH, APP for the Respondent(s) No. 1

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CORAM: **HONOURABLE MR.JUSTICE B.N. KARIA**

Date : 19/05/2016

ORAL ORDER

1. It appears from the record that the charge is framed by the learned 10th Additional Judicial Magistrate First Class, Ahmedabad (Rural) in Criminal Case No.21545/2009. Thereafter, the complainant was examined. On 04.04.2016, examination in chief of the complainant was recorded before the learned Trial Court in Criminal Case No.21545/2009. On 05.04.2016, the complainant-respondent no.2 had filed an application at Exh:38 praying for further investigation in connection with the FIR lodged with Ghatlodia Police Station, Ahmedabad and learned Trial Court passed an order dated 03.05.2016 directing further investigation under Section 173(8) of the Code of Criminal Procedure, 1973.

2. In support of his case, learned counsel for the applicant has relied upon the following decisions:

- (i) **Sumanbhai Kantibhai Patel and another Vs. Amrutbhai Shambhubhai Patel and another (2015 Cri.L.J. 3895);**
- (ii) **E. Jeevankumar Vs. State & another (2011 Cri.L.J. 418);**
- (iii) **Reeta Nag Vs. State of West Bengal and others (2009(9) SCC 129;**

3. In the aforesaid decisions, it is held that further investigation at fag end of trial is not permissible and neither complainant nor accused can claim as a mater of right a direction from the Court commanding further investigation by investigating officer after chargesheet is filed.

4. Learned counsel further submits that the charge was framed on 05.10.2015 and the deposition of the complainant has started by the prosecution in the year 2016 after passing of probably six years.

5. Hence, **Rule** returnable on 17.06.2016. Learned APP waives service of Rule on behalf of the respondent-State.

6. The order dated 03.05.2016 passed below Exh:38 in Criminal Case No.21545/2009 by the learned 10th Additional Judicial Magistrate First Class, Ahmedabad (Rural) is hereby stayed till the next date of hearing.

Direct Service is permitted.

(B.N. KARIA, J.)

rakesh/