

CrI.A.No. 1189 OF 1998  
ITEM No.110

Court No. 10

SECTION IIA

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CrI. Appeal No. 1189 of 1998

Jivraj M.Patel  
...  
Appellant (s)

VERSUS

State of Gujarat  
...  
Respondent (s)

(with office report)

Date : 24/03/2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N.AGRAWAL  
HON'BLE DR. JUSTICE AR.LAKSHMANAN

For Appellant (s) Mr. Sushil Kumar, Sr. Adv.  
Mr. A.V.Palli, Adv.  
Mrs. Rekha Palli, Adv.

For Respondent (s) Ms. Archana Palkar Khopde, Adv.  
Ms. Hemantika Wahi, Adv.

UPON hearing counsel the Court made the following  
O R D E R

The criminal appeal is allowed in terms of the signed order. The appellant who is on bail is discharged from the liability of bail bonds.

(Shashi Sareen)  
Court Master

(S.Krishnan)  
Court Master

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1189 OF 1998

JIVRAJ M.PATEL  
...  
Appellant (s)

Versus

STATE OF GUJARAT

...

Respondent (s)

O R D E R

Heard the parties.

The sole appellant was charged and tried for offences under Section 161 of I.P.C. and Section 5(1)(d) of the Prevention of Corruption Act and by an order rendered by the trial court acquitted of both the charges. On appeal being preferred by the State, the High Court of Gujarat reversed the order of acquittal and convicted the appellant under Section 161 I.P.C. and sentenced him to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs. 2,000/-, in default to suffer further imprisonment for a period of one month. He has been further convicted under Section 5(1)(d) of the Prevention of Corruption Act and sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs. 2,000/-, in default to undergo further imprisonment for a period of one month. The sentences, however, have been ordered to run concurrently. Hence this appeal by special leave.

We have been taken through judgments rendered by the High Court as well as that of the trial court and we find the order of acquittal has been recorded after threadbare discussion of evidence. The trial court, after considering the prosecution evidence in detail, came to the conclusion that the prosecution failed to prove the charges and the accused had furnished credible explanation. The High Court while reversing the acquittal by the impugned judgment has not found that any of the reasonings that weighed with the trial court while passing the order of acquittal was perverse one. Having given our anxious consideration to the matter we are of the opinion that the view taken by the trial court was a reasonable and possible view and the same cannot be said to be perverse in any manner so as to be interfered with by the High Court in the present case.

Accordingly the appeal is allowed, the impugned judgment rendered by the High Court is set aside and the order of acquittal passed by the trial court is restored. Fine, if any, realised may be refunded to the appellant. The appellant who is on bail is discharged from the liability of bail bonds.

.....J.

(B.N.AGRAWAL)

.....J.

(DR. AR. LAKSHMANAN)

New Delhi,  
MARCH 24, 2004.