IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S).661 OF 2025
(ARISING OUT OF S.L.P. (CRIMINAL) NO(S).7878/2019)

ISMAILBHAI HATUBHAI PATEL **APPELLANT(S)**

VERSUS

THE STATE OF GUJARAT **RESPONDENT(S)**

O R D E R

1. Leave granted.

2. Heard the learned counsel appearing for the parties.

3. The appellant is accused no.3 who is a member of the Bar. Apart from several other accused, a charge-sheet has been filed against the appellant for the offences punishable under Sections 406, 420, 465, 467, 468, 471, 474, 166, 167, 193, 196, 199, 201, 203, 255, 260, 261, 262 and 120B of the Indian Penal Code, 1860.

4. One Anilkumar Popatbhai Satodiya is the first informant. The land subject matter of the offence has been described in the charge-sheet. There are three allegations against the appellant in the charge-sheet, namely (i) accused no.1 – Rameshbhai Maganbhai, who was holding a power of attorney, engaged the present appellant for the purposes of filing a tenancy case being Tenancy Case No.57/2001. The allegation is that in connivance with accused no.1, the appellant filed the tenancy case by showing that the power of attorney was genuine, though it was fabricated; (ii) On 25th September, 2001, the depositions of accused no.1 and others were recorded in Tenancy Case No.57/2001. It is alleged that accused

no.1 in connivance with the appellant kept the wrong persons present in place of the original land owners and someone impersonated Somiben Maganbhai, though she was dead; and (iii) Further allegation is that accused no.1 and accused no.5 in connivance with the present appellant obtained their thumb impressions and forged the signatures of the original land owners.

5. The appellant applied for discharge to the Trial Court. The Trial Court rejected the application for discharge. The High Court in a petition under Section 482 of the Code of Criminal Procedure, 1973 has declined to interfere with the order of the Trial Court.

6. The learned senior counsel appearing for the appellant submitted that taking the allegations made in the charge-sheet as correct and upon perusing Tenancy Case No.57/2001 and the depositions dated 25th September, 2001, it is crystal clear that the appellant acted as an advocate appointed by accused no.1 - Rameshbhai Maganbhai, who was the constituted attorney of the persons mentioned in the power of attorney and, therefore, no role can be attributed to the appellant in the commission of the offence.

7. The learned counsel appearing for the State submitted that the allegations against the appellant is of acting in collusion with the other co-accused, namely accused nos.1 and 5 and producing a person who impersonated Somiben Maganbhai. He submitted that all this is a matter of trial and while dealing with a discharge application, the Court cannot conduct a mini trial.

8. We have perused a copy of the Tenancy Case No.57/2001 filed by accused no.1 - Rameshbhai Maganbhai and six other persons through their constituted attorney Chinubhai Haribhai Gajera. It is specifically mentioned so in the cause title. The tenancy case has been signed and verified by the said power of attorney holder - Chinubhai Haribhai Gajera. The *vakalatnama* filed in the Tenancy Case of the appellant is signed by said Chinubhai Haribhai Gajera. These documents are part of the charge-sheet.

9. When a litigant claiming to be a power of attorney holder of others, approaches a member of the Bar and shows him the original power of attorney and engages him to file a case, the Advocate is not expected to get the genuineness of the power of attorney verified, unless he has a reasonable doubt about its genuineness. In this case, the appellant has not purported to file the tenancy case bearing signatures of Somiben Maganbhai, who was allegedly dead. The signature on the tenancy application and below the verification clause was of the power of attorney holder. Even the signature on the *vakalatnama* of the appellant is of the power of attorney holder.

10. Now we come to the depositions of accused no.1 - Rameshbhai Maganbhai and seven others, who were the applicants in the tenancy application, which is recorded on 25th September, 2001. The appellant has admittedly not endorsed or verified the thumb impression of Somiben Maganbhai. In fact, the deposition bears the signatures of accused no.1 - Rameshbhai Maganbhai and one Chandu Magan. It bears thumb impressions of other six persons. Neither

the signatures nor the thumb impressions have been attested by the present appellant. The thumb impressions have been attested by one P.R. Patel.

11. Therefore, taking the assertions in the charge-sheet as correct, we find that no case was made out to proceed against the appellant and to frame charge against him.

12. Accordingly, we set aside the impugned judgment dated 31st August, 2017 passed by the Trial Court and the impugned judgment dated 13th June, 2019 passed by the High Court and discharge the present appellant from the criminal proceedings arising out of CR No.I-110 of 2009 (Sessions Case No.351/2012). We, however, make it clear that we have dealt with only the allegations as against the present appellant and we have not dealt with the allegations made against any other accused, including accused nos.1 and 5 and all issues in that behalf shall remain open.

13. The Appeal is, accordingly, allowed.

.....J.
(ABHAY S. OKA)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
FEBRUARY 11, 2025.

ITEM NO.1 COURT NO.4 SECTION II-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

PETITION(S) FOR SPECIAL LEAVE TO APPEAL (CRL.) NO(S). 6367/2019

[Arising out of impugned final judgment and order dated 13-06-2019 in CRLMA No. 25120/2017 passed by the High Court of Gujarat at Ahmedabad]

NIZAMUDDIN ABDULHAMID JARIWALA Petitioner(s)

VERSUS

THE STATE OF GUJARAT & ANR. Respondent(s)

[TO BE TAKEN UP AS FIRST ITEM IN CAUSE LIST]
(IA No. 106807/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT AND IA No. 106809/2019 - EXEMPTION FROM FILING O.T., IA NO.254316/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA NO.254317/2024 - EXEMPTION FROM FILING O.T. AND IA NO.32653/2025 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

SLP(Crl) No. 7878/2019 (II-B)
(FOR ADMISSION AND I.R. AND IA NOS.30195/2025 AND 32766/2025 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 11-02-2025 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s): Mr. Nikhil Goel, Sr. Adv.
Mr. Ashutosh Ghade, AOR
Mr. Adithya Koshy Roy, Adv.
Ms. Siddhi Gupta, Adv.
Mrs. Naveen Goel, Adv.

Mr. I.H. Syed, Sr. Adv.
Mr. Varinder Kumar Sharma, AOR
Mr. Amaan Syed, Adv.
Mr. Shantanu Sharma, Adv.

For Respondent(s): Mr. Rajat Nair, Adv.
Ms. Swati Ghildiyal, AOR
Ms. Devyani Bhatt, Adv.
Mr. Ojaswa Pathak, Adv.

UPON hearing the counsel the Court made the following

O R D E R

SLP (CRL.) NO.6367/2019

It is not in dispute that the victims of the offence as far as the petitioner is concerned are Manuben Balubhai and Kokilaben Maganbhai. The learned senior counsel appearing for the petitioner seeks liberty to implead them as party respondent nos.3 and 4. Ordered accordingly. The amended cause title shall be filed within a period of two weeks from today.

Notice be issued to the added respondents, returnable on 18th March, 2025. The notice be forwarded to the Officer in charge of Katargam Police Station, Surat, Gujarat, for effecting service.

SLP (CRL.) NO. 7878/2019

Leave granted.

The Appeal is allowed in terms of the signed order.

Pending applications stand disposed of accordingly.

(ASHISH KONDLE)
ASTT. REGISTRAR-cum-PS

(AVGV RAMU)
COURT MASTER (NSH)

[THE SIGNED ORDER IN SLP (CRL.) NO. 7878/2019 IS PLACED ON THE FILE]