

SATISH SHARMA AND ANR.

A

v.

STATE OF GUJARAT

DECEMBER 5, 2002

[S. RAJENDRA BABU AND P. VENKATARAMA REDDI]

B

*Code of Criminal Procedure, 1973:*

*S.169—Release of accused—Submission of report for, by police officers before Magistrate—Persons accused of offences under ss. 114, 302 IPC and s.25 Arms Act—Their applications for anticipatory bail rejected by the Court of Session and the High Court—Again application for anticipatory bail filed before High Court—Meanwhile report u/s 169 submitted by Police Officers before Metropolitan Magistrate for release of the accused— High Court, while considering the bail application of the accused, making observations against the two police officers-appellants that they have tried to over-reach the process of law by submitting the report for discharge of the accused, and thus have shown scant regard to the proceedings before the Court of Session and the High Court and have tried to interfere with the administration of justice amounting to misconduct—That State Government should take serious action against them including their suspension from service—Held, if at the stage of grant or refusal of anticipatory bail certain aspects of the case are considered but later if the investigating agency files report u/s 169, it is difficult to perceive that such a step would amount to interference with the administration of justice—The observations made by the High Court against the two police officers are neither justified nor called for and, therefore, shall stand expunged—Judgment—Remarks against Investigating agency—Expunction of—Judicial strictures.*

C

D

E

F

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1284 of 2002.

From the Judgment and Order dated 8.7.2002 of the Gujarat High Court in Crl. M.A. No. 3294 of 2002.

G

K.T.S. Tuls, Rishi Malhotra and Prem Nath Malhotra, for the Appellants.

S.K. Dholakia, Mrs. Hemantika Wahi and Ms. Sumita Hazarika, for the

H

A Respondent.

The following Order of the Court was delivered :

Leave granted.

- B While considering an application for grant of bail to accused in a criminal case, the High Court made certain observations in the order under appeal against the appellants that they have tried to over reach the process of law by submitting a report under Section 169 Cr.P.C. before the Court of Metropolitan Magistrate to discharge all the three accused for serious offences arising under Section 114, 302 IPC and under Section 25 (1)(c) of the Arms Act. The High Court observed that by filing the cancellation report the appellants had shown scant regard to the proceedings before the Sessions Court and the High Court, as on two occasions the petitions for anticipatory bail were rejected; that, the appellants have not applied their mind in filing such a report under Section 169 Cr.P.C. and have tried to interfere with the administration of justice amounting to serious misconduct: that, the State Government should take serious action, including suspension from service of both the appellants.
- D

- E If at the stage of grant or refusal of anticipatory bail certain aspects of the case are considered but later if the investigating agency files a report under Section 169 Cr.P.C., it is difficult to perceive that such a step would amount to interference with the administration of justice.

- F We have carefully gone through the observations made by the learned Judge of the High Court and we are of the opinion that those observations are neither justified nor called for in the case. Therefore, we direct that the observations made in the order of the High Court from paragraph 16 till the end of the order, except the operative part thereof, shall stand expunged.

The appeal is allowed accordingly.

R.P.

Appeal allowed.