



ADV. VIJAY GUPTA

MOB. 9810663833

R. No. D/325/1985



ADV. DEV RAJ SHARMA

MOB. 9811387613

R. No. D/925R/1998

Topic: An advocate cannot be held criminally liable for merely failing to verify the genuineness of a power of attorney which was handed over by a litigant to file a case

CASE LAW: Ismailbhai Hatubhai Patel vs The State of Gujarat: Criminal Appeal No.661/2025 dt.11.02.2025 arising out of SLP (Cr.) No.7878/2019 (SC)

APPELLANT: 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.

RESPONDENT: 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.

JUDGMENT: 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. Neither the signatures nor the thumb impressions have been attested by the present appellant. The thumb impressions have been attested by some other one. 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. Accordingly, we set aside the impugned judgment passed by the Trial Court and the impugned judgment passed by the High Court and discharge the present appellant from the criminal proceedings

Disclaimer: We totally disclaim liability to any person in respect of anything done on the basis of relying on the above material. This is meant for educational purposes only.