

2017 (0) AIJEL-HC 239533

GUJARAT HIGH COURT

Hon'ble Judges:P.P.Bhatt, J.

State Of Gujarat Versus Bharatbhai @ Bharathussain Mangilal Chaudhary

Criminal Miscellaneous Application No. 12115 of 2017 ; *J.Date :- AUGUST 30, 2017

- DRUGS AND MAGIC REMEDIES (OBJECTIONABLE ADVERTISEMENTS) ACT, 1954
Section - 3(D)

Code of Criminal Procedure, 1973 - S. 378 - Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954 - S. 3(d) - appeal against acquittal - prosecution miserably failed to prove the contents of advertisement - PW 15 who was working as A.S.I., has stated that after receipt of the complaint, he has not gone to the office of the Gujarat Samachar for the purpose of verification of publication of the said advertisement - copy of the advertisement produced on record, was also not legible - prosecution is unable to make out a case against the accused persons as there is no evidence on record to show that the said advertisement was published by the accused persons - no interference with order of acquittal - application dismissed.

Imp.Para: [3][4][5]

Equivalent Citation(s):

2017 (2) DrugsCases(DC) 88 : 2017 AIJEL_HC 239533

JUDGEMENT :-

P.P.Bhatt, J.

1 The present application is filed by the applicant-State under section 378(1)(3) of the Criminal Procedure Code, 1973 seeking leave to appeal against the order of acquittal passed by the learned 5th Additional Judicial Magistrate First Class, Anand in Criminal Case No.1384/2007, whereby at the end of trial, the learned Judge acquitted the respondents for the offence under Section 3(D) of the Drugs and Magic Remedies (Objectionable Advertisement) Act.

2 Heard learned APP Ms. Monali Bhatt for the applicant State and learned advocate Mr. Rushi Bhavsar for the respondent Nos. 1 and 2. Perused the judgment and order passed by the learned Court below.

3 On perusal of the judgment and order passed by the learned Trial Court, it appears that the learned Trial Court has taken into consideration the oral as well as documentary evidence. The findings recorded by the learned Court below are based on documentary as well as oral evidence. On perusal of paragraphs 8, 9 and 10 of the judgment, it appears that the prosecution has miserably failed to prove the contents of the advertisement (Exh.23). P.W. 15, Dhanjibhai Manibhai Patel, who was working as A.S.I., has stated that after receipt of the complaint, he has not gone to the office of the Gujarat Samachar for the purpose of verification of publication of the said advertisement. Moreover, as it emerges from the evidence on record, the copy of the advertisement, which was produced on record, was also not legible. Learned Court below has also after discussing the evidence of prosecution witness recorded that the prosecution is unable to make out a case against the accused persons as there is no evidence on record to show that the said advertisement was published by the accused persons.

4 In view of the findings recorded by the learned Court below, this Court is of the opinion that there is no infirmity with the said findings.

5 Under the circumstances, the present application for leave to appeal cannot be granted and accordingly, stands disposed of.