

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

Petition(s) for Special Leave to Appeal (CrI.) No(s). 1670/2020

(Arising out of impugned final judgment and order dated 23-12-2019 in CRLMA No. 23671/2016 passed by the High Court Of Gujarat At Ahmedabad)

MAHENDRA CHIMANLAL VEKHARIA

Petitioner(s)

VERSUS

THE STATE OF GUJARAT & ANR.

Respondent(s)

(IA No.33924/2020-EXEMPTION FROM FILING O.T.)

Date : 12-11-2021 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s) Mr. Pushpinder Singh, Adv.
Ms. Shalini Kaul, AOR

For Respondent(s)

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

The application submitted by the petitioner-accused to arraign some other two persons as accused in exercise of powers under Section 319 Cr.P.C. has been dismissed by the learned trial Court which has been confirmed by the High Court.

Apart from the fact that such an application under Section 319 of Cr.P.C. at the instance of one of the accused to arraign some other persons as co-accused may not be maintainable even on merits also the High court has rightly rejected the application.

It was the case on behalf of the petitioner that as other two persons were arrested and therefore, their arrest can be said

to be after application of mind and after having *prima facie* case and therefore, they ought to be arraigned as accused is concerned, the same cannot be accepted. Merely, because some person was arrested by that itself it cannot be said that there was any *prima facie* case against him. Many a times, even the persons are arrested on suspicion also. Unless and until, there is some material found against such persons, no charge-sheet can be filed against them.

In the present case, merely because two persons sought to be arraigned as accused in exercise of powers under Section 319 Cr.P.C. were arrested, earlier, it cannot be presumed that there was any *prima facie* case against them at the time of arrest or even thereafter.

Under the circumstances, the High Court has rightly rejected to arraign other those two persons as accused in exercise of powers under Section 319 Cr.P.C. We are in complete agreement with the view taken by the High Court.

The special leave petition stands dismissed.

Pending application(s), if any, also stands disposed of.

(RASHMI DHYANI)
COURT MASTER

(NISHA TRIPATHI)
BRANCH OFFICER