

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPLICATION NO. 3057 OF 2010**

Suleman Haji Yusuf Bhuta  
Aged 62 years, Occ. Business  
Residing at : Behind Markaz Masjid  
Padariya Road, Village – Tankariya  
Bharuch, Gujarat

...Applicant

Versus

The State of Maharashtra  
(At the instance of Sr. Police Inspector  
Sahar Police Station, Mumbai)

...Respondent

Mr. Prasanna A. Bhangale I/b Mr. Shounak Mehta for the Applicant

Dr. F. R. Shaikh, A.P.P for the Respondent

**CORAM : B. P. DHARMADHIKARI &  
REVATI MOHITE DERE, JJ.  
WEDNESDAY, 30<sup>th</sup> JANUARY 2019**

**ORAL JUDGMENT (Per B. P. Dharmadhikari, J.) :**

1            Heard learned counsel for applicant and learned A.P.P for  
respondent-State.

2            Present application under Section 482 of Code of  
Criminal Procedure is for quashing criminal case registered against the

applicant with Sahar Police Station, Mumbai for offence punishable under Sections 465, 468, 471, 420 r/w Section 34 of the Indian Penal Code.

3            Learned counsel for applicant states that there is no material to show that Visa with applicant was, in any way, forged or fabricated. He submits that the FIR has been registered only on the basis of suspicion and since 12<sup>th</sup> November 2008, for last more than 10 years, the Investigating Officer is not in position to substantiate the allegations.

4            Our attention is drawn to order dated 29<sup>th</sup> July 2010 passed by this Court when interim relief came to be granted in present matter and the proceedings in CC No. 2363/PW/2009 pending on the file of the learned Metropolitan Magistrate, 22<sup>nd</sup> Court, Andheri, arising out of C.R. No. 627 of 2008 were stayed.

5            Our attention is also invited to latter order dated 13<sup>th</sup> October 2011 when this Court again gave last chance to respondent to

clear their doubt. On that date, learned A.P.P submitted that verification of genuineness of Swaziland Visa was going on. By way of last chance, matter was adjourned to 24<sup>th</sup> November 2011. It appears that thereafter matter could not be taken up and is placed today for final hearing.

6            Learned A.P.P, even today, is seeking time as instructions on verification of Visa are still awaited. He relies upon the statement made in paragraph 7 of affidavit fled in reply before this Court by one Dilip Shinde, Assistant Inspector of Police. In paragraph 7, said Officer has on oath stated as under :

*“7.            I say that during the course of investigation, there is no any Embassy of Swaziland Country in India, the communication was carried out through the Section Officer (PV-III) Government of India, Ministry of External Affairs, CPV Division, Tilak Nagar, New Delhi-110 001 vide O.W. No.13226/CR627/08/DPS/2008 dated 16.11.2008 for verification of genuineness of Swaziland Visa at the time of arrest of first accused Ayyazbhai Patel.”*

7            The facts (*supra*), therefore, show that only on the basis of some suspicion, applicant-an Indian citizen, is being prosecuted.

Though there was no substantive material, only because during verification of Indian Passport on its page No. 7, entry of Visa to Swaziland was found doubtful, the offence has been registered.

8            Even today, the material on record is grossly insufficient to rebut the presumption of innocence. We, therefore, find that the registration itself cannot be sustained.

9            In this situation, we make rule absolute in terms of prayer clause (a). No costs.

**REVATI MOHITE DERE, J.**

**B. P. DHARMADHIKARI, J.**