IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO. 19493 of 2020

In R/CRIMINAL APPEAL NO. 1292 of 2020

With
R/CRIMINAL APPEAL NO. 1292 of 2020

==========

STATE OF GUJARAT
Versus
PRAVINCHANDRA JAYANTILAL JAYSWAL

==========

Appearance:
MR HARDIK SONI APP (2) for the Applicant(s) No. 1
for the Respondent(s) No. 1

==========

CORAM:**HONOURABLE MR. JUSTICE A.G.URAIZEE**

Date : 22/12/2020

ORAL ORDER

ORDER IN CRIMINAL MISC.APPLICATION NO. 19493 of 2020

1. Heard Mr. Hardik Soni, learned APP for the applicant-State.

2. The respondent was put on trial for offence under sections 13(1)(E) and 13(2) of the Prevention of Corruption Act, 1988. The learned Special Judge, City Civil and Sessions Court, Ahmedabad has acquitted the respondent essentially on the ground that the sanction to prosecute was granted without application of mind.

3. Mr. Soni, learned APP submits that in view of the recent decision of the Supreme Court, even if there are minor discrepancies in the sanction to prosecute, the sanction cannot be stated to be not valid or suffering from non-application of mind. He further submits that the respondent had purchased property almost every year without disclosing such properties in the annual property returns. He submits that the

prosecution had produced sufficient evidence to prove that the respondent had amassed properties disproportionate to his known source of income. He, therefore, urges that the present application may be allowed.

4. It appears from the discussion in paragraph 42 of the judgment that the learned Special Judge has recorded a finding on the basis of PW-5 Ashwinbhai Mukundrai Trivedi that sanction to prosecute the respondent was granted in respect of disproportionate assets worth Rs.3,01,37,368/- and the said witness has stated that sanction to prosecute for disproportionate assets worth Rs.2,70,93,569/- was not granted. Thus, according to the learned Special Judge, the prosecution of the respondent for disproportionate assets worth Rs.2,70,93,569/- is without sanction to prosecute and sanction to disproportionate assets worth Rs.3,01,37,368/- was granted without application of mind which has vitiated the trial.

5. Whether such mistake in granting sanction would be fatal or not, is required to be considered in detail. Hence, I am of the opinion that the present one is a fit case for granting leave to appeal and, accordingly, leave to appeal is granted.

6. The present application stands disposed of accordingly.

ORDER IN CRIMINAL APPEAL NO. 1292 of 2020

Heard Mr. Hardik Soni, learned APP for the appellant-State.

ADMIT.

(A.G.URAIZEE, J)

NAIR SMITA V./zgs