

2023 LiveLaw (SC) 420

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

M.R. SHAH; J., C.T. RAVIKUMAR; J.
SLP (Crl.) No. 9445 OF 2022; MAY 10, 2023

Sanjiv Kumar Rajendrabhai Bhatt *versus* State of Gujarat & Anr.

Recusal - the request of recusal is nothing but an attempt to indulge in Forum Shopping and Bench Hunting and to avoid the Bench with mala fide intention. Earlier, merely because some proceedings might have been heard by one of us before the High Court in connection with the present matter and/or proceedings and some observations might have been made against the petitioner on the delaying tactics, cannot be a ground to accede to the request made by the petitioner. As the prayer lacks bona fide and seems to have been made with mala fide intention to avoid the Bench for no valid reason, the prayer for recusal is rejected. (Para 5)

(Arising out of impugned final judgment and order dated 24-08-2022 in CRLMA No. 1/2022 passed by the High Court of Gujarat at Ahmedabad)

For Petitioner(s) Mr. Devadatt Kamat, Sr. Adv. Mr. Aljo K. Joseph, AOR

For Respondent(s) Mr. Maninder Singh, Sr. Adv. Mr. Rajat Nair, Adv. Ms. Swati Ghildiyal, AOR Ms. Devyani Bhatt, Adv. Mr. A.N.S. Nadkarni, Sr. Adv. Mr. R. C. Kohli, AOR Ms. Ruchi Kohli, Adv. Ms. Srishti Mishra, Adv. Ms. Deepti Arya, Adv. Mr. S.S. Rebello, Adv. Ms. Arzu Paul, Adv.

ORDER

M.R. SHAH, J.

- 1.** A letter has been circulated by the petitioner praying that one of us may recuse from the matter as while deciding one matter before the High Court in the year 2011 arising out of the same FIR, the Court made stricture against the conduct of the petitioner on the delaying tactics adopted by him.
- 2.** We have heard Shri Devadatt Kamat, learned Senior Advocate appearing on behalf of the petitioner, Shri Maninder Singh, learned Senior Advocate appearing on behalf of the State and Shri A.N.S. Nadkarni, learned Senior Advocate appearing on behalf of the original complainant.
- 3.** Learned Senior Advocate appearing on behalf of the petitioner has heavily relied upon the observations made by this Court in paragraph 17 in the case of **Ranjit Thakur Vs. Union of India and Ors., (1987) 4 SCC 611** as well as on the decision of the Court of Appeal in the case of **Locabail (U.K.) Ltd. Vs. Bayfield Properties Ltd. and Anr., (2000) 2 WLR 870** (paragraph 25). Therefore, it is prayed that one of us may recuse from the matter.
- 4.** The prayer is vehemently opposed by Shri Maninder Singh, learned Senior Advocate appearing on behalf of the State as well as Shri A.N.S. Nadkarni, learned Senior Advocate appearing on behalf of the original complainant.
 - 4.1** It is vehemently submitted that the prayer is nothing but an attempt to abuse the process of law and to indulge in Forum Shopping and Bench Hunting. It is submitted that earlier the very petitioner when approached this Hon'ble Court in the matter arising out of the same FIR pertaining to the order challenging the refusal of the High Court to suspend the sentence of the petitioner being SLP (Crl.) Diary No. 2028 of 2020, no such prayer

was made. It is submitted that, however, with a mala fide intention and to avoid the Bench, the prayer has been made, which is to be deprecated.

5. Having heard the learned Senior Advocates appearing on behalf of the respective parties at length on the letter circulated, we are of the opinion that the request of recusal is nothing but an attempt to indulge in Forum Shopping and Bench Hunting and to avoid the Bench with mala fide intention. It is to be noted that earlier the Bench headed by one of us heard the special leave petition in a case relating to the very FIR and filed by the very petitioner and at that point of time, no such objection was raised and no such prayer was made. It is also required to be noted that even when the present special leave petition was notified, a number of occasions after the letter dated 09.11.2022, namely, 14.12.2022, 10.01.2023, 27.02.2023, 28.03.2023, 02.05.2023 and the matter was adjourned even at the request of the learned Senior Advocate appearing on behalf of the petitioner. At that time, the letter dated 09.11.2022 was not pressed into service. However, thereafter when the present special leave petition is taken up for further hearing today and actually being heard, the letter is pressed into service, which is nothing but an attempt on the part of the petitioner to avoid the Bench, which is required to be deprecated. Earlier, merely because some proceedings might have been heard by one of us before the High Court in connection with the present matter and/or proceedings and some observations might have been made against the petitioner on the delaying tactics, cannot be a ground to accede to the request made by the petitioner. As the prayer lacks bona fide and seems to have been made with mala fide intention to avoid the Bench for no valid reason, the prayer for recusal is rejected.

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