

## **Jawar Arjan vs State Of Gujarat on 28 February, 1979**

**Equivalent citations: AIR1979SC1500, 1980CRILJ828, (1979)0GLR840, (1979)3SCC299, 1979(11)UJ492(SC), AIR 1979 SUPREME COURT 1500, 1979 (3) SCC 299, 1979 ALL. L. J. 901, 1979 CRILR(SC MAH GUJ) 349, (1979) FAC 225, 1979 UJ(SC) 492, (1979) 3 MAHLR 255, (1979) 20 GUJ LR 840, (1979) ALLCRIC 151, 1979 SCC (CRI) 629, 1979 SCC (CRI) 633**

**Author: S. Murtaza Fazal Ali**

**Bench: O. Chinnappa Reddy, S. Murtaza Fazal Ali**

### **JUDGMENT**

S. Murtaza Fazal Ali, J.

1. In this appeal by special leave, the appellant has been convicted under Section 66(1)(b) read with Section 181 of the Bombay Prohibition Act. The prosecution case has been fully detailed in the judgment of the courts below and it is not necessary for us to repeat the same all over again. The appellant was a Rikshaw driver who had carried the accused No. 2 in his Rikshaw. On search of the Rikshaw some balloons kept in a bag containing illicit liquor were found. Apart from the passenger who was the owner of these articles the appellant was also convicted as having conscious knowledge of the fact that the bag contained prohibited articles. It is true that both the courts below have held that the accused had conscious knowledge of the fact that the articles contained illicit liquor. This inference appears to have been based largely on the information which the Police derived from its sources which indicated that the appellant in collusion with the second accused were trying to take away the articles. This information, however, being inadmissible, cannot be used against the appellant because there is no evidence to show that the appellant was asked to put these articles in the dicky of the Rikshaw. Nor there is anything to show that the bag containing the balloons was so clearly visible so as to lead to the inference therefrom that the bag contained illicit liquor. It appears from the prosecution case itself that the articles were kept in a bag which was closed and they were put into the dicky of the Rikshaw. The appellant was merely a Rickshaw driver. He cannot be imputed with the knowledge of the possession of the articles merely because the passenger put those articles in the dicky of that Rikshaw. For these reasons, therefore, we are fully satisfied that there is no legal evidence to connect the accused with the crime. Accordingly, the appeal is allowed and the order of the High Court is set aside. The appellant will now be discharged from the bail bonds.