

# Manubhai Ratilal Patel v. State of Gujarat, (2013) 1 SCC 314

Constitution of India

Arts. 226 and 32 - Habeas corpus - Writ of - Refusal to grant - When proper - Remand to judicial or police custody by competent court - Reiterated, habeas corpus petition cannot be entertained when a person is committed to judicial custody or police custody by competent court by order which prima facie does not appear to be without jurisdiction nor which is passed in absolutely mechanical manner nor is wholly illegal - Writ court is required to scrutinise legality or otherwise of order of detention/remand which has been passed - Unless writ court is satisfied that a person has been committed to jail custody by virtue of order that suffers from vice of lack of jurisdiction or absolute illegality, writ of habeas corpus cannot be issued - Appellant-accused in present case remanded to custody by Magistrate when there was stay on further investigation granted by High Court (under S. 482 CrPC) - Refusal to grant writ of habeas corpus by High Court and consequent validation of custodial remand of accused, held, proper, (2013) 1 SCC 314-A

Constitution of India

Arts. 226 and 32 - Habeas corpus - Writ of - Meaning, object and prerequisites for grant of - Reiterated, (2013) 1 SCC 314-B

Criminal Law

Criminal Procedure Code, 1973

Ss. 167 & 309 and 155, 156, 157 & 173 - Remand of accused to custody, and investigation - Distinguished - Stay on investigation granted by High Court thus held, could only have a bearing on actions of investigating agency and did not affect remanding power of Magistrate, (2013) 1 SCC 314-C

Criminal Law

Criminal Procedure Code, 1973

Ss. 2(h) and 173 - Investigation - Meaning of - Held, it inter alia includes: (1) proceeding to the spot and ascertaining facts and circumstances of case, (2) tracing out accused, arresting him and ascertaining motive, how preparation was made for and how offence was committed, other connected persons/accused, if any, (3) collecting evidence by examining witnesses, search of places connected with offence and seizure of articles connected with crime, and (4) evaluation of collected materials so that case can be forwarded for trial, etc., (2013) 1 SCC 314-D

Criminal Law

Criminal Procedure Code, 1973

Ss. 167 and 309 - Remand of accused to judicial or police custody - Nature of remand order and duty of Magistrate - Held, when Magistrate remands accused, it is a fundamentally judicial function and Magistrate does not act in executive capacity - While performing this judicial function, Magistrate has to satisfy himself that there are reasonable grounds therefor and that materials placed before him justify remand of accused - While remanding accused, it is obligatory on part of Magistrate to apply his mind to facts and not to pass remand order in a mechanical manner, (2013) 1 SCC 314-E