

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 779 OF 2019

1. Pratap Fauzdar Singh

Age:- 49 years, Occ.: Advocate
Having office at behind Singh Flour Mill,
Hanuman Nagar, adjacent to BMC School,
Thakkar Bappa Colony,
Chembur, Mumbai – 400 071.

2. Santosh Fauzdar Singh

Age :- 45 years, Occ. : Business,
R/o :- B-105, Building No. 61,
Vidyut CHS, Nehru Nagar, Kurla (E),
Mumbai – 400 024.

... Petitioners

V/s.

1. Vinod Fauzdar Singh

Age :- 61 years, Occ. : Retired,
R/o :- C-604, Sunshine Tower, Suncity,
Ghasgaon road, Vasai (W) Palghar.

2. The State of Maharashtra

The Chief Public Prosecutor, High Court,
Criminal Side, Mumbai.

... Respondents

Ms. Mrunmai Kulkarni a/w Mr. Rohit Vaishya for the Petitioners.
Mr. Ashutosh V. Singh for the Respondent No. 1.
Ms. Manisha Tidkde, APP for the Respondent No. 2-State.

CORAM : RANJITSINHA RAJA BHONSALE, J.

RESERVED ON : 8th JULY 2026.

PRONOUNCED ON : 5th OCTOBER 2026.

JUDGMENT :-

1) By the present petition filed under Article 227 of the Constitution of India, and under Section 397 read with Section 401 of the Code of Criminal Procedure (for short, "CrPC") the Petitioners seek to quash and set aside Order dated 17th January 2019 in Criminal Revision Application No. 649 of 2017 whereby the Learned Sessions Court set aside the order of Metropolitan Magistrate Court accepting 'C' Summary and rejecting protest petition filed by the Respondent No. 1 herein. The Petitioners also take a special exception to the direction of imposing a cost of Rs.10,000/- on the Petitioners, when infact the Petitioners were Respondents in the Revision Application and it was the original Complainant who had approached the Court.

2) Heard Ms. Mrunmai Kulkarni, learned Advocate appearing for the Petitioners, Mr. Ashutosh V. Singh, learned Advocate appearing for the Respondent No. 1, and Ms. Manisha Tidke, learned APP for the Respondent No. 2-State.

3) Briefly stated facts are as under :-

3.1) Petitioner Nos.1 and 2 are the brothers of Respondent No.1/Original Complainant. Their father, late Faujdar Singh, owned a plot admeasuring approximately 650 sq. ft. at Thakkar Bappa Colony, on which a flour mill and shops were situated. After their father's death in May 2001, Respondent No.1 claims to have looked after the property and business, while

Petitioners Nos.1 and 2 were engaged in their respective businesses.

3.2) A dispute, thereafter arose between the brothers, regarding the said property. Respondent No.1 alleges that Petitioner No.1, who is an Advocate, intended to deprive him of his share in the property, resulting in several complaints between the parties.

3.3) It is the allegation of Respondent No.1 that, Petitioner Nos.1 and 2 subsequently produced certain documents in civil suit before the City Civil Court, claiming that Respondent No.1 had executed the said documents in their favour on 20th December 2005. Respondent No.1 categorically alleged that, he had neither executed nor signed those documents and that the signature appearing on the documents was not his signature. The documents allegedly include a General Power of Attorney, Affidavit and Release Deed dated 20th December 2005.

3.4) Respondent No.1 alleges that Petitioners Nos.1 and 2, with the assistance of Accused No.3 Ram Naval Singh, forged the said documents with the dishonest intention of depriving him of his 1/3rd share in the property. It is alleged that, the forged documents were knowingly used before the City Civil Court as evidence in support of the Petitioners' claim over the property.

3.5) Respondent No.1 also relies upon alleged irregularities concerning his signature, notarization, seal, the Notary's records and the date appearing on the documents as circumstances indicating forgery. Respondent No.1 has contended that despite approaching the police, no action was taken

on the ground that the dispute was pending before the civil court. That, the accused threatened him when he sought to take action in respect of the alleged forged documents. On the basis of these allegations, Respondent No.1 sought prosecution of the accused for offences punishable under Sections 420, 405, 466, 468, 506(II) and 120-B of the IPC.

4) Ms. Mrunmai Kulkarni, learned Advocate for the Petitioners, submitted that:-

4.1) The Revisional Court has exceeded the scope of its jurisdiction by interfering with a well-reasoned Order dated 19th June 2017 passed by the Metropolitan Magistrate Court. There is no illegality or perversity warranting interference.

4.2) Respondent No. 1 had falsely filed the frivolous complaint under Section 156(3) of the Cr.PC on the allegations that the signatures on the Release Deed and General Power of Attorney are forged and fabricated.

4.3) The Investigating Authorities have taken the original Release Deed and Power of Attorney from the Court records for specimen signature verification. That, specimen signatures of the Respondent as well as of the Petitioners had been taken by the Police and sent to the Handwriting Expert for opinion. After receiving the report from the Handwriting Expert, the Investigating Agency had filed C-Summary Report before the Metropolitan Magistrate, 34th Court at Vikhroli, Mumbai.

4.4) The learned Magistrate, after examining the complaint,

investigation papers, final report, protest petition, documentary evidence, statements of witnesses, and the report of the Handwriting Expert, dismissed the said complaint by order dated 19th June 2017. The Order dated 19th June 2017 considers the entire material available on record. In this factual background, the Revisional Court had to only test the legality and propriety of the Order and not re-appreciate the entire evidence and come to a different conclusion. That, the jurisdiction of the Revisional Court is limited to correcting jurisdictional error, patent illegality, or material irregularity. Re-appreciation of evidence and substitution of findings is impermissible under Section 397 of the CrPC. The Revisional Court, in fact, sat in appeal, which is impermissible in law. The impugned Order dated 17th January 2019 passed by the Sessions Court in revision does not identify any jurisdictional error, procedural irregularity, or perversity.

4.5) The non-application of mind of the Revisional Court is writ large from the fact that, the Revisional Court had imposed costs of Rs.10,000/- upon the Petitioners without any reason or justification, though the Revision Application was filed by Respondent No. 1. The order indicates total non-application of mind.

4.6) That, after registration of the FIR, a comprehensive investigation was conducted. The Handwriting Expert's opinion clearly states that the signatures of Respondent No. 1, i.e., N-1 to N-5, the specimen signatures at B-1 to B-6, and the signatures on the Release Deed and General Power of

Attorney, being Q-1 to Q-17, are written by one and the same hand.

4.7) The Handwriting Expert's report clearly negates the alleged offence of forgery. The Investigating Agency submitted a C-Summary Report, thereby making it clear that the dispute is of a civil nature. That, the allegations were not substantiated by the evidence collected during the investigation.

4.8) Learned Advocate for Respondent No. 1, during the course of arguments, has admitted that the Affidavit-cum-Undertaking of the Petitioners had been signed by Respondent No. 1

4.9) It is necessary to keep in mind that the dispute pertains to the shares of real brothers in ancestral property. That, the dispute between the parties is essentially a family dispute arising out of rights in family property. A civil dispute has been given a colour of a criminal offence.

4.10) That, the Order dated 19th June 2017 considered all the material and documents on record and has been passed after following the procedure. That, Respondent No. 1 has neither approached the Police under Section 154(1), nor has any application been made to the Superintendent of Police under Section 154(3) of the Cr.PC.

5) Mr. Ashutosh Singh, learned Advocate for Respondent No. 1, submitted that:-

5.1) The Petitioners and Respondent No. 1 are real brothers, and the disputes between them pertain to division of ancestral properties inherited

after the demise of their father.

5.2) On 7th February 2016, Respondent No. 1 had approached Nehru Nagar Police Station with a complaint against the Petitioners alleging obstruction and interference with his rights in the ancestral property. That, pursuant to discussions, a settlement was arrived at wherein Respondent No. 1 agreed to release and relinquish 1/3rd of his right, title and interest in the ancestral property for a lump sum payment of Rs. 18,00,000/-. That, the Petitioners executed an Affidavit-cum-Undertaking dated 7th February 2006, Affidavit, Power of Attorney, Release Deed and Family Settlement Deed, acknowledging their liability and undertaking to pay the amount.

5.3) The cheques issued for payment of the said amount of Rs. 18,00,000/- have been dishonoured, and separate legal proceedings under Section 138 of the Negotiable Instruments Act have been filed.

5.4) The Petitioner No. 2 has instituted Civil Suit No. 2696 of 2006 against Respondent No. 1. That, in the Civil Suit, the Petitioner has relied upon the forged and fabricated Release Deed and Irrevocable General Power of Attorney dated 20th December 2005. That, Respondent No. 1 has neither executed the said documents nor appeared before any Notary or authority for execution of the same.

5.5) Upon realizing the fraud committed by the Petitioners, Respondent No. 1 initiated criminal proceeding by filing a private complaint under Section 156(3) before the Metropolitan Magistrate Court, at Vikhroli.

That, investigation under Section 156(3) was directed, and M.E.C.R. No. 272 of 2006 came to be registered against the Petitioners for offences punishable under Sections 406, 466, 467, 468, 506(II) read with Section 34 of the IPC.

5.6) After the C-Summary Report was filed, Respondent No. 1 filed a detailed Protest Petition and also led evidence in support thereof. That, the learned Magistrate, by Order dated 19th June 2017, improperly accepted the C-Summary Report and dismissed the complaint. That, the Order of the Sessions Court dated 17th January 2019 is an interlocutory and administrative Order which remands the matter back to the learned Magistrate with directions to hear the application afresh, consider the Police Report, and pass a speaking Order. Therefore, no cause of action has arisen for filing the present Petition. That, the Writ Petition is filed at a premature stage and is not maintainable.

5.7) The Petitioners have an alternative remedy of seeking discharge. That, if the Petitioners' claim is to be accepted that Respondent No.1 had already executed the Release Deed and the Irrevocable Power of Attorney dated 20th December 2005 and relinquished his rights, then there was no reason to enter into a fresh settlement at Nehru Nagar Police Station on 7th February 2006. By the Affidavit-cum-Undertaking dated 7th February 2006, the Petitioners have, in fact, acknowledged and admitted the share and rights of Respondent No. 1.

5.8) The opinion of the Handwriting Expert is not conclusive evidence,

and it can only be taken for the purpose of corroboration. That, the present criminal offences are prima facie made out, inasmuch as false, forged and fabricated documents have been prepared by the Petitioners to grab the share, right, title, and interest of Respondent No. 1 in the ancestral property. That, the said false and forged documents have been used as genuine documents against Respondent No. 1.

5.9) That, no case is made out for interfering with the impugned Order. That, the Petitioners will have an opportunity to defend themselves at the trial by leading evidence.

6) Ms. Manisha Tidke, learned APP for the Respondent-State adopted the arguments advanced by the Mr. Ashutosh V. Singh, learned Advocate for the Respondent No. 1.

7) Perused the entire record. Perusal of the complaint would indicate that the Petitioners and the Respondent No. 1, are real brothers. It is the case of Respondent No. 1 that, the flour mill known as 'Singh Flour Mill' and the plot adjoining the flour mill were allotted to his father in lieu of demolition of their tabala in the said locality. That, after the death of the father on 3rd May 2001, certain disputes arose between the Petitioners and Respondent No. 1. A civil proceeding has been initiated by Petitioner No. 2 against Respondent No.1. Summons were issued in the said civil suit by the City Civil Court. In the said suit, annexed to the Plaint are the Power of Attorney, Affidavit and Release Deed dated 20th December 2005, which according to the Respondent

No.1 are forged and prepared with the intention of grabbing Respondent No.1's share in the properties. The contention of the Petitioners is that Respondent No. 1 had executed the said documents in favour of the Petitioners. Respondent No. 1 has stated that he tried to give complaints to the concerned Police Authorities, but they refused to take cognizance. On the basis of the said allegations and averments, Respondent No. 1 filed a complaint under Section 156(3) of the Cr.PC. Pursuant to the said complaint, an FIR came to be registered on 5th August 2006.

8) On record is a statement of Mr. Ramanwal Jokhansingh, who was the conductor of the flour mill. In the said statement the said Ramanwal Jokhansingh, has specifically stated that there were disputes between the Petitioners and Respondent No. 1 and, pursuant to discussions, a settlement was arrived at. That, on 20th December 2005, the General Power of Attorney and Release Deed were prepared and executed, and the Petitioners and Respondent No. 1 signed the said documents in presence of Mr. Ramanwal Jokhansingh, who signed the said documents as a witness.

9) Perusal of the Order dated 19th June 2017 would indicate that, pursuant to the application under Section 156(3) and the Order dated 17th July 2006, M.E.C.R. No. 272 of 2006 came to be registered against the Petitioners and other co-accused under Sections 406, 466, 467, 468, 506(II) read with Section 34 of the IPC. The Order records that, on completion of the investigation, a C-Summary Report was filed stating that the issues involved in

the case appeared to be of a civil nature. Upon a Protest Petition being filed, the same was examined. The learned Magistrate considered the Release Deed, Power of Attorney, Affidavit-cum-Undertaking dated 7th February 2006, and the copy of the Order dated 6th May 2017 passed in Suit No. 2696 of 2006 filed between the Petitioners and Respondent No. 1. The Order records the submissions of Respondent No. 1 that, along with Petitioner Nos. 1 and 2, he is also one of the legal heirs of his father, Mr. Fauzdar Singh and that, despite being one of the legal heir, he has been deprived of his legal rights on the basis of the alleged forged documents. The Order specifically records that, upon perusal of the report, evidence and documents on record, it appears that the disputes involved are entirely civil in nature and that the issues of inheritance, succession and rights to family property are involved. The City Civil Court has correctly held that the Release Deed dated 20th December 2005, being an unregistered document, cannot confer any rights or interest in favour of the Petitioners and, similarly, nor can the right, title and interest of Respondent No. 1 stand extinguished.

10) The Order dated 19th June 2017 makes reference to the Handwriting Expert's report, which categorically states that this signature on the disputed documents and the specimen signature of Respondent No.1 are of one and the same hand. After considering the aforesaid facts, the original application, C-Summary Report, Protest Petition, evidence before process and the Order of the City Civil Court, the Magistrate came to the conclusion that

the essential ingredients required for the offences alleged are not made out. In view of the said factual background, the Protest Petition was dismissed and the C-Summary Report was accepted. By the Order dated 19th June 2017, the proceedings stood closed.

11) Perusal of the opinion of the Handwriting Expert dated 13th April 2009, issued by the Additional Chief State Examiner of Documents, CID, State of Maharashtra, Mumbai, indicates that the following opinion is given.

OPINION

“1. The Pencil-encircled English signatures marked as Exs.Q-1 to Q-17 and those on the Exs. B-1 to B-6 & N-1 to N-7 are written by one and the same hand.

2. The pencil-encircled English signatures marked as Exs.Q-19, Q-21, Q-23, Q-25, Q-27, Q-29, Q-31, Q-33 & Q-35 and those on the Exs. E-1 to E-6 is written by one and the same hand.

3. The pencil-encircled Balbodh signatures (in writing form) marked as Exs Q-36 & Q-38 when compared with those on the Exs. P-1 to P-6 shows similarities which are indicating of their common authorship.

4. The pencil-encircled English signatures marked as Exs. Q-37 & Q-39 and those on the Exs. F-1 to F-6 are written by one and the same hand.

5. The identifying characteristics features of the pencil encircled signatures on the form of initials marked as Exs. Q-18, Q-20, Q-22, Q-24, Q-26, Q-28, Q-30, Q-32, Q-34 being limited in extent for examination, do not provide adequate identifying characteristics/features for comparison with those on the Ex.D-1 to D-6.

As such, because of absence of adequate identifying characteristics data for comparison, it has not been made possible to read any definite opinion as regards the identity or otherwise of the pencil-encircled signatures (in the form of initials) marked as Exs. Q-18, Q-20, Q-22, Q-24, Q-26, Q-28, Q-30, Q-32 & Q-34 when compared with those on the Exs. D-1 to D-6.”

12) Prima facie, it appears that the Sessions Court has misdirected itself in concluding that the Handwriting Expert's opinion obtained by the

Police Investigating Officer is inconclusive. Perusal of the Handwriting Expert's opinion, in respect of Respondent No. 1, prima facie and clearly indicates that the signatures marked as Q-1 to Q-7 and those on Exhibits B-1 to B-6 and N-1 to N-7 are written by one and the same hand. There is no doubt in respect of the signatures of Respondent No. 1, which are the main crux of the matter.

13) The Revision Application having been filed, the learned Sessions Judge, while entertaining the application under the revisional jurisdiction, concluded that the Handwriting Expert's opinion was inconclusive. A further reason given by the Revisional Court is that, the Order dated 19th June 2007 is a non-speaking Order. The Sessions Court in paragraph 8, has concluded as under:-

“8. However, the dispute brought by the applicant before the learned Magistrate was not regarding his right to the property, its devolution or partition as observed by the learned Magistrate. Rather, it was regarding preparation of false Power-of-Attorney and release-deed. Hence, I am of view that the view taken by the learned Magistrate is in ignorance of the fact of the case.”

14) In my considered opinion, the Sessions Court, in its limited revisional jurisdiction went ahead to appreciate the entire evidence while recording that the Respondent No. 1 has raised the question as to why another Release Deed, for a consideration of around Rs. 18,00,000/-, was executed after the intervention of the Police, if the disputed Release Deed had already been executed on 20th December 2005. The Sessions Court has observed that these circumstances have not been discussed by the Magistrate. I am of the

prima facie opinion that what the Sessions Court has done is to re-appreciate the entire evidence, which is not permissible under Section 397 in the exercise of revisional jurisdiction under the CrPC.

15) Based on the said findings, the Sessions Court has set aside the Order dated 19th June 2017 and directed the Magistrate to hear Respondent No. 1 afresh, consider the Police Report afresh, and pass a speaking Order. Surprisingly the Petitioners were directed to pay costs of Rs. 10,000/-, when in fact the Revision has been filed by the Respondent No. 1. What was challenged was judicial Order. There is no reason given or discussed for such a direction being issued. It shows total non-application of mind and an act of exceeding its limited jurisdiction.

16) Perusal of the record would indicate that, the dispute relates to the question of inheritance and succession of family property. Prima facie, it appears that the dispute is, in essence, a civil dispute arising out of the question of succession and distribution of ancestral/family properties. The other proceedings are off shoots of the said inheritance/succession dispute. It is also necessary to keep in mind that the FIR was registered pursuant to a Order passed under Section 156(3) of CrPC. The Respondent No. 1 has also initiated proceedings in respect of Section 138 of the NI Act for the post dated cheques which were issued pursuant to the settlement arrived at between the parties. Perusal of the Handwriting Expert's Report, which forms part of the investigation papers, would prima facie indicate that the signatures

on the documents in question and the natural signatures of the Respondent No. 1 clearly indicate that the same have been signed by the same hand.

17) The Sessions Court, by the impugned Order, has clearly exceeded its revisional jurisdiction in minutely appreciating the entire evidence and interfering with the Order only because, according to the Sessions Court, another possible view could have been taken. In fact, this Court is of the opinion that the Magistrate Court has passed the Order after applying his judicial mind and after giving appropriate and apt reasons for such application of mind. The Revisional Court has clearly exceeded its jurisdiction and has incorrectly set aside the Order dated 19th June 2017. A prima facie incorrect finding in respect of the handwriting expert report has been recorded. No fault can be found with the observations that unregistered documents do not create any right in immovable property or that by the said documents the rights of the parties cannot be affected as the documents are unregistered documents. Civil proceedings are already filed and pending. Orders have been passed in the civil proceedings.

18) A useful reference can be made in the following Judgments.

18.1) The Hon'ble Supreme Court in the case of *Amit Kapoor v. Ramesh Chander*, reported in (2012) 9 SCC 460 has observed that:-

“12. Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a

well-founded error and it may not be appropriate for the court to scrutinise the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.

13. *Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order. The Court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injustice ex facie. Where the Court is dealing with the question as to whether the charge has been framed properly and in accordance with law in a given case, it may be reluctant to interfere in exercise of its revisional jurisdiction unless the case substantially falls within the categories aforesaid. Even framing of charge is a much advanced stage in the proceedings under the CrPC.*

....

18. *It may also be noticed that the revisional jurisdiction exercised by the High Court is in a way final and no inter court remedy is available in such cases. Of course, it may be subject to jurisdiction of this Court under Article 136 of the Constitution of India. Normally, a revisional jurisdiction should be exercised on a question of law. However, when factual appreciation is involved, then it must find place in the class of cases resulting in a perverse finding. Basically, the power is required to be exercised so that justice is done and there is no abuse of power by the court. Merely an apprehension or suspicion of the same would not be a sufficient ground for interference in such cases.*

20. *The jurisdiction of the court under Section 397 can be exercised so as to examine the correctness, legality or propriety of an order passed by the trial court or the inferior court, as the case may be. Though the section does not specifically use the expression “prevent abuse of process of any court or otherwise to secure the ends of justice”, the jurisdiction under Section 397 is a very limited one. The legality, propriety or correctness of an order passed by a court is the very foundation of exercise of jurisdiction under Section 397 but ultimately it also requires justice to be done. The jurisdiction could be exercised where there is palpable error, non-compliance with the provisions of law, the decision is completely erroneous or where the*

judicial discretion is exercised arbitrarily. On the other hand, Section 482 is based upon the maxim quando lex aliquid alicui concedit, concedere videtur id sine quo res ipsa esse non potest i.e. when the law gives anything to anyone, it also gives all those things without which the thing itself would be unavoidable. The section confers very wide power on the Court to do justice and to ensure that the process of the court is not permitted to be abused.”

18.2) The Hon’ble Supreme Court in the case of *Manendra Prasad Tiwari v. Amit Kumar Tiwari*, reported in (2022) 20 SCC 757 has observed that:-

25. *Section 397CrPC vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law or the perversity which has crept in the proceeding.*

26. *It is useful to refer to judgment of this Court in Amit Kapoor v. Ramesh Chander [Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460 : (2012) 4 SCC (Civ) 687 : (2013) 1 SCC (Cri) 986], where the scope of Section 397CrPC has been succinctly considered and explained. Paras 12 and 13, respectively, are as follows : (SCC p. 475)*

“12. Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the court to scrutinise the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.

13. Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an

interim or interlocutory order. The court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injustice ex facie. Where the court is dealing with the question as to whether the charge has been framed properly and in accordance with law in a given case, it may be reluctant to interfere in exercise of its revisional jurisdiction unless the case substantially falls within the categories aforesaid. Even framing of charge is a much advanced stage in the proceedings under CrPC.”

18.3) The Hon’ble Supreme Court in the case of *New India Assurance Co. Ltd. v. Krishna Kumar Pandey*, reported in (2021) 14 SCC 683 has observed that:-

“7. The scope of the revisional jurisdiction of the High Court (or Sessions Court) under Section 397CrPC, is limited to the extent of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order passed by an inferior court. The Revisional Court is entitled to look into the regularity of any proceeding before an inferior court. As reiterated by this Court in a number of cases, the purpose of this revisional power is to set right a patent defect or an error of jurisdiction or law.”

19) As noted hereinabove the main issue is that of distribution of an entitlement to the ancestral properties. The said issue is civil issue and can be sorted out by filing appropriate civil proceedings if advised and in accordance with law. Considering the peculiar facts of the present case, the handwriting experts opinion and the reasoning of the Order dated 19th June 2017, this Court is of the opinion that the Sessions Court had exceeded in exercising its revisional jurisdiction.

20) It is settled law that, revisional jurisdiction can be exercised and invoked to examine the correctness, legality and propriety of the Order. That is the very crux and ambit of the revisional jurisdiction. The object and

purpose of the revisional jurisdiction to set right a patent illegality or perversity in the Order. Mere apprehension that a different view is possible cannot be a ground to interfere with a otherwise well reasoned order or a order which is well founded on the facts of the matter and the law. As noted hereinabove the Order dated 19th June 2017 has considered all the facts, investigation papers, C-Summary Report, ground of the Protest Petition and evidence on record. The Order has also considered hand writing experts report.

21) Considering the aforementioned facts and circumstances, and more particularly the peculiar facts of the present case, I find it necessary, in the interest of justice and to secure the ends of justice, to quash and set aside the Order dated 17th January 2019 in Criminal Revision Application No. 649 of 2017.

22) In view thereof, the Petition is allowed in terms of prayer clause 'b'.

(RANJITSINHA RAJA BHONSALE, J.)

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