IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL REVISION APPLICATION (AGAINST ACQUITTAL) NO. 1628 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE R. T. VACHHANI

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Approved for Reporting	Yes	No

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SWAMI JYOTIRMAYANAND SARASWATI
Versus
KANTIBHAI MADHABHAI TADVI and ANR.

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Appearance:
HARSHIT R PUROHIT(8385) for the Applicant(s) No. 1
MR ROHAN H RAVAL, APP for the Respondent(s) No. 2

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CORAM:**HONOURABLE MR. JUSTICE R. T. VACHHANI**

Date : 05/11/2026

ORAL JUDGMENT

1. By way of present criminal revision application the applicant has assailed the judgment and order of acquittal dated 09.04.2026, passed by the learned Additional District and Sessions Court, Narmada at Rajpipla in Criminal Appeal arising from Criminal Case No. 1005 of 2013, confirming the judgment and order of acquittal dated 19.04.2024 passed by the learned Chief Judicial Magistrate, Narmada at Rajpipla in Criminal Case No. 1005 of 2013, whereby the learned Chief Judicial Magistrate has been pleased to acquit the respondent no. 1-accused from the charges levelled against him under Sections 447, 504, 506(2) and 114 of the Indian Penal Code.

2. The brief facts of the case are that the applicant is the original complainant. The applicant had preferred a complaint before the Rajpipla Police Station for the offences punishable under Sections 447, 504, 506(2) and 114 of the Indian Penal Code inter alia alleging that the respondent no. 1-accused had committed the said offences wherein the accused had beaten up the complainant for which the FIR was lodged and registered against the accused. That the accused was arrested and upon conclusion of investigation, the investigating agency filed charge-sheet against the accused before the learned Chief Judicial Magistrate, Narmada at Rajpipla as Criminal Case No. 1005 of 2013, wherein, vide judgment and order dated 19.04.2024 the accused came to be acquitted from the charges levelled against him. The said judgment and order of acquittal was confirmed by the learned Additional District and Sessions Court, Narmada at Rajpipla vide judgment and order dated 09.04.2026. Being aggrieved with the said orders the applicant has filed the present revision application.

3. Submissions on behalf of the Learned Advocate for the applicant:

3.1. Learned Advocate for the applicant has submitted that the impugned judgments and orders of acquittal are illegal, erroneous and against the weight of evidence on record. He has further submitted that the learned Chief Judicial Magistrate, Narmada at Rajpipla erred in holding that the prosecution had not proved its case beyond reasonable doubt and the learned Additional District and Sessions Court, Narmada at Rajpipla erred by confirming the said order without examination of proper merits of the case in Criminal Appeal No. 31 of 2024.

3.2. It is submitted that the judgments and orders are absolutely illegal, unjust and improper and passed without considering the evidence on

record as well as the provisions of law on the subject. He has further submitted that there is clear-cut mis-appreciation of the evidence on record and non-application of mind. The learned trial Court has committed error while acquitting the accused without giving just, proper and cogent reasons.

3.3. It is submitted that prima facie there has been incriminating evidence against the accused as the witnesses have categorically stated in their testimonies that the accused were present at the place of crime as well as the actions of inflicting harm of the accused on the victim and complainant has also been supported by the testimony and by the medical reports. It is further submitted that the respondent accused has also filed an FIR later on under Atrocities Act being FIR No. 158 of 2018 depicting the very same incident in different manner and even in further statement the accused has confirmed the occurrence of the incident and presence of the accused at the time of occurrence of the incident.

3.4. The applicant has submitted that the learned Sessions Court has erred in law and facts. The Sessions Court failed to appreciate the consistent testimony of the complainant and independent witnesses, the corroborative documentary evidence including Panchanama and police papers, and that minor contradictions do not vitiate otherwise credible evidence. It is submitted that the evidence produced by the prosecution was cogent, reliable and unimpeachable.

3.5. The Trial Court had before it sworn testimony of the complainant and other witnesses, duly recorded under oath, which clearly established that the respondent forcibly entered the Ashram premises, broke the gate, and issued threats of demolition. Documentary exhibits such as Notice served by the Sarpanch, Police Diary entries dated 12.02.2013 and

24.02.2013, and RTI replies dated 22.04.2023 were produced, which corroborated the complainant's version. The Panchanama and contemporaneous police records (Exhibits 58/1 to 58/7) clearly supported the prosecution case. The threats of demolition and abusive language used by the respondent amounted to criminal intimidation. The Ashram premises were a place of worship and residence of several disciples, and unlawful entry coupled with threats caused serious disturbance to public peace. The findings of fact based on direct testimony of eye-witnesses should not be lightly interfered with unless shown to be perverse.

3.6. The order and judgment passed by the learned Trial Court is a non-speaking order as it has merely copy-pasted the entire examinations-in-chief and cross-examinations, whereas the reasoning part is completely missing. The acquittal is contrary to the weight of evidence and has resulted in miscarriage of justice. The offence under Section 447 of the Indian Penal Code stood conclusively proved. The threats and abusive language used by the respondent no. 1 were duly established, attracting Sections 504 and 507 of the Indian Penal Code.

3.7. Even otherwise the impugned judgment and order of acquittal is illegal, against the settled legal principles, contrary to the facts and material on record. Hence, he has prayed to allow the present revision application, quash and set aside the judgment and order of acquittal dated 19.04.2024 passed by the learned Chief Judicial Magistrate, Narmada at Rajpipla in Criminal Case No. 1005 of 2013 and the judgment and order dated 09.04.2026 passed by the learned Additional District and Sessions Court, Narmada at Rajpipla in Criminal Appeal No. 31 of 2024 and convict the accused.

4. Submissions on behalf of the Learned APP for the State:

4.1. Learned APP for the respondent-State has opposed the present revision application. He has submitted that the learned Chief Judicial Magistrate, Narmada at Rajpipla, after appreciating the evidence on record, has acquitted the respondent no. 1-accused vide judgment and order dated 19.04.2024 in Criminal Case No. 1005 of 2013, and the said order of acquittal has been confirmed by the learned Additional District and Sessions Court, Narmada at Rajpipla vide judgment and order dated 09.04.2026 in Criminal Appeal No. 31 of 2024.

4.2. It is further fairly submitted that the two courts below have concurrently recorded findings of acquittal. Most of the witnesses have not supported the case of the prosecution and even those who tried to support the case show vast contradictions. Under these circumstances, when even the appellate court has not interfered with the order of acquittal, no case is made out for interference in the limited revisional jurisdiction of this Court. Hence, he has requested to pass appropriate orders.

5. Having heard, learned Advocate for the applicant and learned APP for the respondent-State, at the stage of admission and carefully examined the oral and documentary evidence adduced before the Courts below.

6. It appears that the incident is alleged to have taken place on 08.02.2013 between 09:00 to 09:30 hours at the Ashram. The prosecution case is that the respondent no. 1-accused along with others came with instruments and damaged the structure and issued threats. The complaint was lodged for the offences under Sections 447, 504, 506(2) and 114 of the Indian Penal Code. The charge-sheet was filed as Criminal Case No. 1005 of 2013. The learned Chief Judicial Magistrate, Narmada at

Rajpipla, after recording evidence, acquitted the accused vide judgment and order dated 19.04.2024. The said order was confirmed by the learned Additional District and Sessions Court, Narmada at Rajpipla vide judgment and order dated 09.04.2026 in Criminal Appeal No. 31 of 2024.

7. The learned Chief Judicial Magistrate has first noted the ingredients of the offence of criminal intimidation. The threat must be to the body, property or reputation of the complainant or of any person in whom he is interested. The threat must be given with intent to cause alarm or to cause the complainant to do any act which he is not legally bound to do or to omit to do any act which he is legally entitled to do. The threat must be of death or of grievous hurt or of destruction of property by fire or of an offence punishable with imprisonment for life or with imprisonment for a term of seven years or of imputation of unchastity to a woman. The learned Chief Judicial Magistrate has further noted that until the offence is proved beyond reasonable doubt the accused is presumed to be innocent. A witness who deposes on oath is presumed to speak the truth. There is no fixed rule for appreciation of evidence in particular path. Each case depends on its own facts and the evidence on record. The learned Chief Judicial Magistrate has taken into consideration the principles laid down in ***Lal Bahadur v. State NCT Delhi, 2013 (4) SCC 557*** and ***Bharwad Bhoginbhai Hirjibhai versus State of Gujarat, 1983 (3) SCC page 217***. As per the said propositions, while appreciating evidence the Court has to consider the education, social status, social background and intellectual level of the witnesses. Memory and power of observation of each witness differ. Exact repetition of words on every occasion is not expected from witnesses. Minor contradictions which do not affect the core of the case are not fatal to the prosecution.

8. Several witnesses have been examined by the prosecution, including the complainant at Exh.-28, Naginbhai Kanubhai Machi at Exh.-83, Bhaktiswarupanand Saraswati at Exh.-85, Siddharaj Muljibhai Tadvi at Exh.-84, Bhupatbhai Hamirsingh Mangrola at Exh.-86, Mohansingh Chandrasinh Mangrola at Exh.-88, Jayendrabhai Hasmukhbhai Tadvi at Exh.-89 and Melabhai Khodabhai Tadvi at Exh.-92. On evaluation and appreciation of the evidence, the learned Chief Judicial Magistrate has held that contradictions appear between the court depositions and the police statements of the witnesses, that several of them including Naginbhai Kanubhai Machi and Melabhai Khodabhai Tadvi have turned hostile or failed to support the prosecution, and that the panchnama at Exh.-87 has not been proved. Having gone through the record, this Court endorses the said finding. In the present revision, it is not necessary to reproduce the detailed depositions of all the witnesses.

9. From the above evidence it is clear that most of the material witnesses have either turned hostile or have not supported the prosecution case. The witnesses who have tried to support the case have made improvements and there are major contradictions between their police statements and court depositions, particularly regarding the specific threat and the persons who caused the damage. The complainant and the supporting witnesses have admitted pending civil disputes and other cases between the parties. The panch witnesses have not supported the panchnama. No clear, consistent and reliable evidence is found regarding the unlawful entry, the specific damage, the specific abuses or the criminal intimidation as alleged. The learned Chief Judicial Magistrate has therefore held that the prosecution has failed to prove the case beyond reasonable doubt and has extended the benefit of doubt to the accused. The learned Additional District and Sessions Court has confirmed the said findings.

10. At this juncture it would be apt to reproduce the provisions of Section 397 read with Section 401 of the Code of Criminal Procedure and the corresponding provisions under the Bharatiya Nagarik Suraksha Sanhita, which read as under:

> *"**Code of Criminal Procedure, 1973***
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> ***Section 397. Calling for records to exercise powers of revision.**—(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement that he be released on bail or on his own bond pending the examination of the record.*
>
> *Explanation.—All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 398.*
>
> *(2) The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.*
>
> *(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them.*
>
> ***Section 401. High Court's powers of revision.**—(1) In the case of any proceeding the record of which has been called for by itself or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 386, 389, 390 and 391 or on a Court of Session by section 307, and, when the Judges composing the Court of Revision are equally divided in opinion, the case shall be disposed of in the manner provided by section 392.*
>
> *(2) No order under this section shall be made to the prejudice of the accused or other person unless he has had an opportunity of being heard*

either personally or by pleader in his own defence.

(3) Nothing in this section shall be deemed to authorise a High Court to convert a finding of acquittal into one of conviction.

(4) Where under this Code an appeal lies and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of the party who could have appealed.

(5) Where under this Code an appeal lies but an application for revision has been made to the High Court by any person and the High Court is satisfied that such application was made under the erroneous belief that no appeal lies thereto and that it is necessary in the interests of justice so to do, the High Court may treat the application for revision as a petition of appeal and deal with the same accordingly.

Corresponding Provisions under the Bharatiya Nagarik Suraksha Sanhita, 2023

Section 438. Calling for records to exercise powers of revision.*—(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement that he be released on his own bond or bail bond pending the examination of the record.*

Explanation.—All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 439.

(2) The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them.

> ***Section 442. High Court's powers of revision.***—*(1) In the case of any proceeding the record of which has been called for by itself or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 427, 430, 431 and 432 or on a Court of Session by section 344, and, when the Judges composing the Court of revision are equally divided in opinion, the case shall be disposed of in the manner provided by section 433.*
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> *(2) No order under this section shall be made to the prejudice of the accused or other person unless he has had an opportunity of being heard either personally or by advocate in his own defence.*
>
> *(3) Nothing in this section shall be deemed to authorise a High Court to convert a finding of acquittal into one of conviction.*
>
> *(4) Where under this Sanhita an appeal lies and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of the party who could have appealed.*
>
> *(5) Where under this Sanhita an appeal lies but an application for revision has been made to the High Court by any person and the High Court is satisfied that such application was made under the erroneous belief that no appeal lies thereto and that it is necessary in the interests of justice so to do, the High Court may treat the application for revision as a petition of appeal and deal with the same accordingly."*

11. However, considering the facts of the case on hand, while equating the power vested in the High Court under Section 401 with the powers of the appeal under Section 372 and Section 378 of the Code, which stands on a different footing as the scope for exercising revisional powers are very limited in comparison to the powers vested under the provision of Section 371 of the Code (relevant appeal provisions), the powers of the Revisional Court under Section 401 are very limited powers and the Court cannot enter into the concurrent findings.

12. Before proceeding further, I would like to place on record the scope of interference in a case against the acquittal and when the same is

justified. In exceptional cases, where there are compelling circumstances and the judgment under appeal is found to be perverse, the appellate court can interfere with the judgment of acquittal. The Appellate Court should bear in mind the presence of innocence of the accused and further that, the Learned Sessions Court's acquittal bolsters the presumption of his innocence. Interference in a routine manner, where the other view is possible, should be avoided, unless there are reasons for interference, as the same has been laid down by the Hon'ble Supreme Court, in the case of ***Tulasareddi @ Mudakappa & Anr. v. The State of Karnataka & Ors., 2026 INSC 67***.

13. It is apt to refer at this juncture the powers of the Appellate Court while interfering with the order of the acquittal passed by the court below. The power should not be interfered with if two views are possible. Now equating the powers vested in the High Court under Section 401 with the aforesaid powers, that stands on a lighter footing as the powers required to be exercised by the Revisional Courts are too limited. Under the aforesaid circumstances, without there being any perversity, irregularity or arbitrariness, the impugned order cannot be interfered with while exercising the power of revision.

14. At this juncture, it is apt to refer to the judgment of the Hon'ble Supreme Court in ***Joseph Stephen and others Versus Santhanasamy and others, Criminal Appeal Nos. 90-93 of 2022, decided on 25.01.2022,*** while exercising the revisional jurisdiction, the scope would be very limited, however, while exercising the appellate jurisdiction, the appellate Court would have a wider jurisdiction than the revisional jurisdiction. Sub-section (3) of Section 401 of the Code of Criminal Procedure prohibits/bars the High Court to convert a finding of acquittal into one of conviction. If the order of acquittal has been passed by the

trial Court, the High Court may remit the matter to the trial Court and even direct retrial.

15. It is apt to refer to the decision of the Supreme Court in the case of ***Kuntegowda vs. Thurubaiah, 2026 INSC 790***, wherein it has been held as under:

> *"Discretion in the exercise of revisional jurisdiction should be exercised within the four corners of this section whenever there has been miscarriage of justice. However, while exercising power under this section, the Court does not act as an appellate Court and therefore while considering the legality, propriety or the correctness of a finding or a conclusion, the revisional court does not and should not dwell upon the facts and the evidence of the case as an appellate Court. The court, in revision, considers the material only to satisfy itself about the correctness, legality and propriety of the findings, sentence and order recorded by the lower court, and should refrain from substituting its conclusion on an elaborate consideration of evidence and the findings of the lower courts should not be reversed merely on the ground that an alternative view is possible on the facts of the case. In this case, such a position did not also emanate from the evidence on record.*
>
> *7.1 This Court, in the State of Maharashtra vs. Jagmohan Singh Kuldip Singh Anand, (2004) 7 SCC 659 observed that the High Court, in exercise of its revisional jurisdiction, cannot embark upon an in-depth roving re-examination of the oral evidence and medical evidence and come to a conclusion contrary to the consistent one reached by two courts below. In the facts of the present case, in the impugned judgment, the High Court gravely erred in upsetting the concurrent findings of conviction of the trial court and the Appellate Court by substituting its own conclusions and reasoning on the merits of the case and thereby erred in setting aside the well-reasoned and correct judgement and orders of the trial and appellate courts.*
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> *7.2 Upon perusal of the impugned judgment and order dated 06.10.2023, it is apparent that the High Court went into great detail into each of the testimonies, documents and merits of the case which could have been avoided especially when the subject matter had come under its revisional jurisdiction. Instead, acting as an appellate Court, the High Court deemed it fit to go into the merits of the case, something which is generally*

impermissible unless a glaring contradiction is apparent on the face of record. In State of Kerala vs. Puttumana Illath Jathavedan Namboodiri, (1999) 2 SCC 452, while considering the scope of the revisional jurisdiction of the High Court this Court has laid down the following:

> *"5. ... In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of supervisory jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an appellate court nor can it be treated even as a second appellate jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to reappreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice. On scrutinizing the impugned judgment of the High Court from the aforesaid standpoint, we have no hesitation to come to the conclusion that the High Court exceeded its jurisdiction in interfering with the conviction of the Respondent by reappreciating the oral evidence. ..."*

7.3 The contours for exercise of revisional jurisdiction has been well settled by the judicial dicta of this Court wherein time and again it has been observed that the High Court shall not interfere with the orders of the lower court unless:

i. The order or finding of the lower court is perverse, grossly erroneous, glaringly unreasonable or wholly unreliable or untenable in law.

ii. The lower court has passed the impugned order after considering an immaterial or irrelevant material or no material at all.

iii. There is a non-consideration of any relevant material or the judicial discretion has been exercised arbitrarily or capriciously."

16. In nutshell, the power of revision court under section 401 CrPC, equivalent section of BNSS 442, can be exercised by calling upon the records of any proceedings pending before the court below so as to

examine the case for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order passed by the concerned court. Thus, that doesn't mean that to rehear and re-appreciate the entire case, but only to the extent to check legality and propriety of the order in question. Thus, under section 401 CrPC, the High Court, while exercising a supervisory power over the Magistrate Court, has to ensure justice and legality, but doesn't act as an appellate court to re-examine the evidence in its entirety.

17. The judgment and order of acquittal dated 19.04.2024 passed by the learned Chief Judicial Magistrate, Narmada at Rajpipla in Criminal Case No. 1005 of 2013 has been confirmed by the learned Additional District and Sessions Court, Narmada at Rajpipla vide judgment and order dated 09.04.2026 in Criminal Appeal No. 31 of 2024.

18. Thus in nutshell, if two views are possible on the evidence, when the first appellate court cannot substitute its own view for the view taken by the trial court. The powers of the revisional court are still more limited. When the appellate court itself has not interfered with the order of acquittal, this Court in revisional jurisdiction cannot reappreciate the evidence as if it is an appellate court. No glaring defect in procedure, no manifest error of law and no perversity in the appreciation of evidence by the two courts below is pointed out. The concurrent findings of acquittal recorded by the learned Chief Judicial Magistrate and confirmed by the learned Additional District and Sessions Court do not call for interference. The present criminal revision application therefore deserves to be dismissed.

19. For the forgoing reasons, the present application is dismissed. Record and proceedings, if any, be remitted to the concerned Court.

(R. T. VACHHANI, J)

MVP

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: MITESH VIJAYBHAI PANCHAL(HCD0065), ENGLISH STENOGRAPHER GRADE TWO CLASS TWO, at High Court of Gujarat on 05/11/2026 17:50:29