

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL REVISION APPLICATION (AGAINST ACQUITTAL)
NO. 558 of 2020

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

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Approved for Reporting	Yes	No
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AATSIBEN DHIRENBHAI SHAH
 Versus
 STATE OF GUJARAT & ORS.

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Appearance:

MR PRATIK B BAROT(3711) for the Applicant(s) No. 1
 DELETED for the Respondent(s) No. 3
 NOTICE SERVED for the Respondent(s) No. 2,4,5
 MS SHRUTI PATHAK, APP for the Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 02/04/2026

JUDGMENT

- (1) By way of present criminal revision application the applicant has assailed the judgment and order dated 19.05.2017, in Criminal Case No.351 of 2011, passed by the learned Additional Chief Metropolitan Magistrate, Court No.22, Ahmedabad (who shall hereinafter be referred to as "**learned trial Court**"), whereby, the learned trial Court has acquitted the accused from the charges levelled against them by extending benefit of doubt as well as judgment and order dated 13.11.2019, in Criminal

Appeal No.667 of 2017, passed by the learned Additional Sessions Judge, Court No.21, City Civil & Sessions Court, Ahmedabad, whereby, the learned Sessions Judge has dismissed the appeal and confirmed the judgment and order of the learned trial Court. Being aggrieved by the above-mentioned orders the applicant – original complainant has filed the present revision application against acquittal of the respondent nos.2 to 5 – original accused.

- (2) Heard learned Advocate Mr. Pratik B. Barot, for the applicant and learned APP Ms. Shruti Pathak, for the respondent – State.
- (3) The brief facts of the present case are that the applicant – original complainant has filed a complaint being I-C.R.No.176 of 2011 registered with Ellis Bridge Police Station, for the offences punishable under Sections 498A and 114 of the Indian Penal Code and under Sections 3 and 7 of the Dowry Prohibition Act. After completion of investigation the Investigating Officer has filed a charge-sheet against the accused. That the learned Magistrate has framed charge against the accused and conducted the trial. After appreciating the evidence produced on record the learned trial Court was pleased to acquit all the accused from the charges levelled against them. Thereafter, the complainant has challenged the said order by filing Criminal Appeal which came to be dismissed by upholding the order of

acquittal.

- (4) Learned Advocate for the applicant – original complainant has submitted that the learned trial Court ought to have considered that the FIR is never ever an encyclopedia of the prosecution case but is merely a starting point to set the criminal machinery into motion. He has further submitted that if a lady comes up with a case of mental and physical cruelty it is for the defence on the contrary to disprove the case of the prosecution by leading truthful evidence suggestive of no physical and mental harassment ever caused. He has further submitted that both the Courts have committed error while ignoring the evidence of the complainant which corroborated by the evidence of her parents and Doctor the allegation of torture caused to her on 15.12.2010 is revealed but as she was examined after two days of the incident non finding of injury can never be a ground to disprove the allegations of the harassment. Hence, he has requested to allow the present revision application.
- (5) Learned APP for the respondent – State has opposed the present revision application and submitted that both the Courts below have properly appreciated the evidence produced on record.
- (6) Having heard the learned Advocates for the respective parties and perusing the record and proceedings it appears that the alleged incident took place between 31.12.2001 to 13.12.2010

alleging mental and physical harassment meted out by the accused. The prosecution has relied upon complainant at Exhibit 33 and examined as complainant – Atsiben Dhirenbai at Exhibit 32, Apurvabhai Bhulabhai Mehta at Exhibit 92, Dr. Jitendra Amrutlal Parmar at Exhibit 101, Anjaliben Apurvabhai at Exhibit 104, Udamsinh Govindbhai Shah at Exhibit 110. The learned trial Court has observed that going through the evidence it nowhere mentioned that as to when the accused meted out harassment on the complainant or demanded dowry. A perusal of complaint at Exhibit 33 and her examination in chief at Exhibit 32 reveal contradiction and omission and even improved version of allegations in her deposition. It is needless to say that the within 9 years of their marriage cruelty was meted out but as per the allegations starting point and specific instance is missing. No specific instance qua cruelty is mentioned and the same is missing and even contradiction, omission and improvement were found in the testimony of the complainant which goes to the root of the case and hence the learned trial Court has properly appreciated the evidence and discarded the evidence of the complainant. Moreover, when two possible views emerge from the evidence of the prosecution then view favouring the accused is required to be given weightage as presumption of innocence. Furthermore, the material contradictions, omissions and improvements in the evidence particularly between testimony of

the witness and earlier statement undermine the credibility of the evidence of the witness.

- (7) In addition the scope of revisional jurisdiction is very limited and power under Section 401 of the Code is discretionary and the same is required to be used only in exceptional cases where glaring defect in the procedure and manifest error of law or there has been miscarriage of justice. Here no any such error is pointed out or no perversity or illegality is found from the reasons assigned by both the Courts below. Moreover, the revisional jurisdiction itself does not provide reappraisal of evidence and considering the limited jurisdiction the Court cannot act as Appellate Court. Therefore, no case is made out to upset the concurrent findings of the learned trial Court and learned Appellate Court in light of scope of revision laid down by the Hon'ble Apex Court in ***Amit Kapoor Vs. Ramesh Chander***, reported in **2012 (9) SCC 460**.
- (8) In view of above, the present Criminal Revision Application stands **dismissed**. Record and proceedings, if any, be sent back to the concerned Court forthwith.

(HASMUKH D. SUTHAR,J)

ANKIT JANSARI

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: ANKIT YOGESHBHAI JANSARI(HCW0109), ENGLISH STENOGRAPHER GRADE I, at High Court of Gujarat on 06/04/2026 15:51:52