IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL REVISION APPLICATION (AGAINST ORDER PASSED BY SUBORDINATE COURT) NO. 2888 of 2026

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GHANSHYAMBHAI TRIBHUVANBHAI CHAUHAN DALWADI

Versus

STATE OF GUJARAT & ORS.

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Appearance:
MR. DHARMIK J JOSHI(18552) for the Applicant(s) No. 1
MR. NIRAJ SHARMA, APP for the Respondent(s) No. 1
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CORAM:**HONOURABLE MR. JUSTICE R. T. VACHHANI**

Date : 26/10/2026

ORAL ORDER

1. By way of the present revision application under Section 438 read with Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, "the BNSS"), the applicant – original complainant has prayed to quash and set aside the judgment and order dated 08.08.2026 passed by the learned 2nd Additional Sessions Judge, Morbi (hereinafter referred to as "the learned Sessions Court") in Criminal Appeal No.96 of 2019, whereby, while confirming the conviction, the learned Sessions Court has extended the benefit of probation to the original accused No.1 & 2 – respondent No.2 & 3 herein.

2. Heard Mr. Jaydev B. Bhatt, learned advocate appearing on behalf of Mr. Dharmik J. Joshi, learned advocate for the applicant – original complainant, Mr. Niraj Sharma, learned APP for the respondent-State.

3. Learned advocate for the applicant has submitted that the learned Sessions Judge, in its judgment and order dated

08.08.2026 has committed a serious error in granting the benefit under Probation of Offender's Act, 1958 to the accused persons. It is submitted that the learned Sessions Court has failed to appreciate the oral and documentary evidence placed on the record. Hence, he has requested to quash and set aside the order of Sessions Judge giving benefit of probation.

4. *Per contra*, Mr. Niraj Sharma, learned Additional Public Prosecutor for the respondent – State, has vehemently opposed the present revision application and submitted that the learned Sessions Court has not committed any error in extending the benefit of probation to the accused persons. It is submitted that the benefit of probation has been extended subject to conditions and in the event of any breach thereof, appropriate action could have been taken against the accused persons; however, till date, no untoward incident has been reported against them. It is, therefore, submitted that no interference is called for at the hands of this Court in the impugned judgment and order and the present revision application deserves to be dismissed.

5. Having heard learned advocate for the respective parties and perusing the material placed on record, it appears that the respondents accused herein were put on trial in connection with the offence registered at Halvad Police Station, District Morbi, for the offence under Sections 323, 324, 504, 506 (2) and 114 of the IPC and Section 135 of the G. P. Act, which was culminated into Criminal Case No.353 of 2017, whereby after recording the evidence, learned JMFC, Halvad has been pleased to convict the original accused Nos.1 & 2 for the offence under Section 323 and 114 of IPC and sentenced 6 months SI with fine of Rs.1,000/-

and in case of default further simple imprisonment of 1 month, Section 135 of the Gujarat Police Act, 1951 for fine of Rs. 500/- and in case of default further simple imprisonment of 3 days and for the offence under Section 324 and 114 of IPC and sentenced 2.5 years SI with fine of Rs.10,000/- and in case of default further simple imprisonment of 3 months. Further, the Learned Court was pleased to direct the accused persons to pay compensation under Section 357(1) of the Criminal Procedure Code, 1973 of Rs.10,000/- to the Complainant.

6. Being aggrieved by the said judgment and order passed by the learned Chief Judicial Magistrate, Halvad in Criminal Case No.353 of 2017, the original accused No.1 & 2 preferred Criminal Appeal No.96 of 2019 before the learned Sessions Court, Morbi. The learned Sessions Court, vide judgment and order dated 08.08.2026, while upholding the order of conviction recorded by the learned Chief Judicial Magistrate, Halvad, was pleased to extend the benefit of probation to the accused persons, subject to their maintaining good behaviour and keeping peace in the society.

7. Being aggrieved by the said judgment and order passed by the learned Sessions Court, the original complainant has preferred the present revision application before this Court. At this juncture, it is pertinent to note that no untoward incident has been reported against the accused persons, nor has any breach of peace been committed by them. On the contrary, the accused persons have complied with all the conditions imposed upon them.

8. At the outset, it is required to be noted that the scope of interference in exercise of revisional jurisdiction is limited. While exercising such jurisdiction, this Court is only required to satisfy itself as to the correctness, legality or propriety of the finding, sentence or order recorded or passed by the Court below. It is well settled by a catena of judgments of the Hon'ble Supreme Court that, unless the impugned order suffers from patent illegality, perversity or a material irregularity resulting in miscarriage of justice, the revisional Court would not be justified in substituting its own view for the view taken by the Court below.

9. It is true that an accused cannot claim the benefit of probation as a matter of right. However, the object underlying the law of probation is reformatory in nature, i.e. to reform the offender rather than merely to punish him, which is the avowed aim of both the Court and the law. The Hon'ble Supreme Court, in a catena of judgments, has laid down the principles governing the extension of the benefit of probation and has consistently held that once the requisite conditions are satisfied, the Court is duty bound to consider whether the case before it is a fit case for releasing the offender on probation. The Court is vested with the discretion to extend such benefit on such terms and conditions as it may deem fit and proper.

10. In view of the foregoing discussion, this Court is of the considered opinion that the learned Sessions Court has not committed any error, much less an error apparent on the face of the record, in extending the benefit of probation to the accused persons. The impugned judgment and order does not suffer from

any illegality, perversity or impropriety so as to warrant interference by this Court in exercise of its revisional jurisdiction.

11. Consequently, the judgment and order dated 08.08.2026 passed by the learned 2nd Additional Sessions Judge, Morbi in Criminal Appeal No.96 of 2019 is hereby confirmed.

12. Accordingly, the present revision application stands ***dismissed***. Record and Proceedings, if any, be sent back to the concerned Court forthwith.

(R. T. VACHHANI, J)

CDP

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: CHIRAG DESHRAJ PAL(HCD0072), ENGLISH STENOGRAPHER GRADE TWO CLASS TWO, at High Court of Gujarat on 02/11/2026 15:15:40