



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO. 195 OF 2025

1. Zunzar Suresh Pawar
Age : 45 years, Occu. : Service,
R/o.At Post Gangapurgaon, Near Bus Stop,
Ambedkar Chowk, Tq. and District : Nashik.

2. Uday Narayan Kulkarni
Age: 58 years, Occu.: Service,
R/o. : 6-A, Bharat Nagar,
Near Tulshiram Nagar,
Devpur, Dhule.

....Applicants
(Original Accused)

Versus

- . Union Of India
Through Investigating Officer,
CBI, ACB, Pune.

.....Respondent

.....

Shri Jagdish V .Deshpande, Advocate for Applicants
Shri Sachin Subhash Panale, Special Public Prosecutor – CBI

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WITH

CRIMINAL REVISION APPLICATION NO. 230 OF 2025

1. Nirmal Kumar Biswal
Age : 45 years, Occu. : Business,
R/o.Village Tarpur, Dist.: Jagatsingpur,
State – Oddisha, At Present r/o. -
Tirupati Supreme Inclave, Jalan Nagar,
Paithan Road, Chh. Sambhajinagar.

2. Nandkumar Gopalrao Kulkarni
Age: 53 years, Occu.: Tax Consultant,
R/o. :Flat No.101, Bhartiya Apartment,
Jai Vishwabharti Colony,
Chh. Sambhajinagar.

....Applicants
(Original Accused)

Versus

. Union Of India
Through Investigating Officer,
CBI, ACB, Pune.Respondent

.....
Shri Jagdish V .Deshpande, Advocate for Applicants
Shri Sachin Subhash Panale, Special Public Prosecutor - CBI

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 29 JANUARY 2026

PRONOUNCED ON : 05 FEBRUARY 2026

JUDGMENT :

1. Revision petitioners, who are arraigned as accused in Crime No.RC Pune/2017/A/00013, which came to be registered at the instance of CBI, are hereby challenging common order dated 11-04-2025 passed by learned Special Judge (CBI), Aurangabad on application Exhibits 20 and 21 pressed into service by the accused seeking discharge under Section 227 of the Code of Criminal Procedure. (Cr.P.C.)

BRIEF FACTS OF THE CASE

2. Above crime came to be registered on the premise that, in all four accused (present petitioners) had entered into a conspiracy for finalizing tax liability of a coaching classes namely M/s. Gurukul Coaching Classes run by accused no.3 - Nirmal Kumar Biswal, for the

years 2013-14, 2014-15 and 2015-16 by deliberately showing less income than the actual earned i.e. by suppressing and manipulating record during an Income Tax Survey conducted on 24-02-2015. It is a specific allegation that in doing so, accused nos.1 and 2, who were Income Tax Officers of Ward Nos.3(2) and 3(1) respectively at the relevant time, by conniving with accused no.4, N.G.Kulkarni, a Tax Consultant, helped accused no.3, Nirmal Kumar Biswal, in evasion of tax liability thereby causing wrongful loss to the Government and causing wrongful gain to Gurukul Coaching classes of which accused no.3 was one the partners. There are allegations that revision petitioner no.1 Zunzar Pawar has received kickback to the tune of Rs.20,00,000/-. It is further specifically alleged that the revision petitioner no.1 Zunzar Pawar was not at all authorized to conduct any survey but he deliberately participated in the Survey to favour accused no.3.

SUBMISSIONS

On Behalf of Revision Petitioners/Accused :

3. Pointing to the above accusations, Shri Deshpande, learned counsel for the applicants would contend that, above accusations are misconceived and misplaced and without any foundation. He would

strenuously submit that, at the outset, there was no material to indicate any conspiracy being hatched by present revision petitioners. He further pointed out that, in the Income Tax Survey, certain minor irregularities were detected and on it being pointed out, income tax to that extent was also duly paid and accepted and therefore, it is his fundamental submission that the very foundation of causing loss to the Government by evading tax itself gets knocked off at the bottom.

4. He further pointed out that, merely because accused no.1 Zunzar Pawar was present at the time of alleged Income Tax Survey, it would not itself be sufficient to attribute allegation that he was also involved in helping accused no.3 to the above alleged evasion of tax. According to him, it is usual practice to conduct survey by a team constituting Income Tax Officials and therefore also merely because accused no.1 was not incharge of that particular Ward in which the classes were being run, itself would not be sufficient to level allegation that he initially was party to the conspiracy and further received illegal gratification.

5. According to him, the primary source of information is said to be Income Tax Survey under 133A of the Income Tax Act, which was

a routine exercise, and by no stretch of imagination, it would be said to be an Assessment of Income Tax so as to level above accusations that too after two years of alleged Survey. According to him, accused no.2 - Uday Kulkarni, who was said to be authorized to conduct Survey, had even duly prepared the report within 48 hours after the conclusion of the survey and mere act of tendering the report was by accused no.1 – Zunzar Pawar and his such act cannot be construed to that of conspirator.

6. Learned counsel further took this court through statement of witness namely Vaibhav Dhere and would point out that this witness had stated that the assessee i.e. coaching classes has accepted undisclosed income and duly paid tax with interest thereupon and even income tax returns were also duly filed. Thus according to him, accusations of evasion of tax or suppression of actual income are misconceived. He also, on this issue, pointed to the statement of one Jivan Bachhav and would submit that from his statement it is clear that there is no loss to the Government as is alleged by the complainant.

7. He further submitted that in view of essential ingredients for

offence under Section 13(1)(d) of the Prevention of Corruption Act, there is absolutely no material in the entire chargesheet and on the contrary, in the statement of one Dipak Giri recorded on 23-02-2018, it is no were stated that there was suppression of actual income of the coaching classes for the above financial years.

8. He further pointed out that, accusation that accused no.3 - Nirmal Kumar Biswal paid Rs.20,00,000/- to accused no.1 - Zunzar Pawar through accused no.4 – N.G.Kulkarni, who allegedly acted as a conduit is also utterly misplaced as there is no incriminating material in such direction. According to him, statements of witnesses cannot be made basis of levelling above allegation and more particularly, according to him, there is no material whatsoever showing demand or acceptance of bribe so as to attract the provisions of Prevention of Corruption Act.

9. Criticizing the impugned judgment, learned Counsel for the revision petitioners pointed out that all above aspects are ignored by the learned trial court. That, simplicitor statements which has no evidential value in the eyes of law are directly relied. That, none of statements of witnesses bear the signatures of revisionists.

10. He would further point out that even learned trial court failed to consider that there was invalid sanction. Lastly, there being little, weak or no evidence to make revision petitioners to face charge or face trial, learned counsel seeks indulgence in the impugned judgment by allowing the revision.

He relies on the decision of Hon'ble Apex court in the case *Dipakbhai Jagdishchandra Patel v. State of Gujarat and Another*, (2019) 16 SCC 547, *Kanchan Kumar v. State of Bihar*, 2022 AIR (SC) 4288 and *Lalita Kumari v. Govt. of U.P. and Others*, 2023 (9) SCC 695.

On Behalf of Respondent -CBI :

11. Shri Panale, learned Special Public Prosecutor for respondent – CBI, who filed written submissions would justify the order of the trial court and he too apprised this court about the factual background since conducting Income Tax Survey by Income Tax Authorities till detection of alleged evasion of tax and accused persons to be committing above offence by hatching a conspiracy. According to him, learned trial court has correctly dealt with law while dealing with application for discharge and urges to reject the application.

In support of his submissions, learned Special Public Prosecutor – CBI relied on Judgment and order of this Court in the case of *Vijaykumar Dnyandev Raut v. The State of Maharashtra and others*, passed on 20-11-2025 in Criminal Revision Application No.205 of 2025.

Law on Section 227 of the Cr.P.C. :

12. It would be just and proper to spell out settled legal position while considering discharge application under Sections 227 and 228 of the Cr.P.C.

It is fairly settled position that, at such stage, Court dealing with such application is merely expected to determine existence of *prima facie* material for proceeding to frame charge and make accused persons face trial. Material in chargesheet is expected to be sifted with limited intention to find out whether there are sufficient material to proceed against accused. Neither in-depth analysis nor meticulous analysis of evidence is expected at such stage. Thus, to put in simple words, the purport is to ascertain whether there is *prima facie* material suggesting existence of essential ingredients for the offences, which are alleged to be committed.

Above position has been time and again reiterated since the

cases of State of *Bihar v/s Ramesh Singh* (1977) 4 SCC 39; *Union of India v. Prafulla Kumar Samal and Another* (1979) 3 SCC 4, and a decade back in the cases of *Sajjan Kumar v. Central Bureau of Investigation* (2010) 9 SCC 368; *Amit Kapoor v. Ramesh Chander and another* (2012) 9 SCC 460; *State of Tamil Nadu (By Inspector of Police Vigilance and Anti-Corruption) v. N.Suresh Rajan and Others*. (2014) 11 SCC 709; *Asim Shariff v. National Investigation Agency* (2019) 7 SCC 148; and *Ram Prakash Chadha v. State of Uttar Pradesh* (2024) 10 SCC 651.

Law on Section 397 of the Cr.PC. :

13. This Court is called upon to exercise revisional powers invested upon it under Section 397 read with Section 401 of the Code of Criminal Procedure. Therefore, it would be also appropriate to spell-out judicial precedent on the point of scope and object of revision under Section 397 of the Code of Criminal Procedure.

While exercising powers under section 397 of Cr.PC., this court is merely expected to test the legality, propriety or illegality in the findings recorded by learned trial court. Such powers are to be exercised to prevent miscarriage of justice and when there are clearing errors on the face of order or there is failure and non

compliance of law. Re-appreciation is to be avoided unless findings are patently perverse and as such, is the narrow scope of revisional court. Law regarding the scope of revision is elucidated in catena of judgments. Though there are catena of judgments, the landmark judgment of ***Amit Kapoor v. Ramesh Chander and another*** (2012) 9 SCC 460 is relied and the relevant observations therein are borrowed and quoted as under :

“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.”

14. Therefore, here, the limited scope for this Court, while exercising revisional powers, is to ascertain whether there is patent error, illegality or perversity in the impugned order. It is to be merely seen that material is correctly appreciated or not in the light of requirement of prayers for discharge. Sufficiency of material to frame charge is the linchpin. No indepth analysis, evaluation or re-appreciation of the material in the form of chargesheet is expected to be done.

Analysis

15. In the instant case, present revision petitioners are apparently arraigned as accused nos.1 to 4. Sum and substance of the accusations is that, Coaching Classes namely Gurukul Coaching Classes, which are allegedly run in partnership by accused no.3 – Nirmal Kumar Biswal is located at Sagar Trade Center, Jalna Road, Akashwani, Aurangabad. That, revision petitioner no.1 - Zunzar Pawar was infact having jurisdiction of Ward No.3(2) of Aurangabad, whereas revision petitioner no.2 – Uday Kulkarni also an Income Tax officer, had domain over Ward No.3(1) of Aurangabad. Accused no.3 is the partner of Gurukul Coaching Classes and accused no.4 is Tax Consultant engaged by Gurukul Coaching Classes.

Complainant CBI official alleges that, while Income Tax Survey was done and visit to the Gurukul Coaching Classes were paid, after going through the assessment record, it emerged that for the year 2013-14, 2014-15, 2015-16 less income was reflected than that was actually earned during such period and accordingly, so much tax was only paid which amounts to evasion of tax. While doing so, it is alleged that there was suppression of material apart from manipulating the record. There are further allegations that present revision petitioner no.1 Zunzar Pawar had no authority to be party to the survey but he participated and moreover, enquiry revealed that through accused no.4, a Tax Consultant, accused no.1 obtained bribe of Rs.20,00,000/-. This is the sum and substance of the accusations on behalf of the complainant CBI.

16. Perused and sifted the record with above limited purpose to test availability of sufficiency of material. On undertaking such exercise, here, chargesheet comprises of statement of Assistant Commissioner Mr. Anant Tambe, one finds him to be stating that in preliminary survey dated 24-02-2015, there was no authority with accused no.1 Zunzar Pawar to be part of the said survey. In spite of it, he is shown to be signatory to the survey report. The next Officer

Mr.Abhijit Halidar, who was Additional Commissioner ranking Officer, has also put to scrutiny the documents pertaining to Income Tax Survey and he gave statement that accused no.1 Zunzar Pawar was not authorized by him to be member of the survey team which conducted survey of Gurukul Classes on 24-02-2015 and authorization was only in the favour of Income Tax Officer Uday Kulkarni as well as one Yashpal. Therefore, according to him also, accused no.1 Zunzar Pawar has unauthorizedly submitted preliminary report and he also marks his presence during visit to premises of Gurukul Classes.

Similarly, Dr.Vaibhav Dhere, who was Deputy Director, after going through the survey papers and impounded documents, gave statement that there was mismatch in the amount revealed in said documents and those which were taken into account at the time of Survey during which above two officers i.e. revisions petitioners in Criminal Revision Application Nos.195 of 2025 were present.

Likewise, another Income Tax Officer Mr.Pravin Laxman Pande categorically stated in the statement that there was no authorization in the name of accused no.1 Zunzar Pawar to conduct survey of Gurukul Classes.

Mr.Manoj Govindrao Karalgikar, also is a Income Tax Officer

and his statement is to the above extent.

These are the statements of very Income Tax Officials of various hierarchy.

17. The Chargesheet further contains statements of very Marketing Executive of said coaching classes namely Prakash Kasare and he stated that he has handed over production memo cum receipt memo under his signature, which were said to be handed over to CBI. He also named both present revision petitioners in Criminal Revision Application No.195 of 2025 to have visited the Gurukul Coaching Classes i.e. on 24-02-2015 for conducting survey during which original fees receipts were put to scrutiny. In his statement he has stated that deal was settled for Rs.20,00,000/- and accused no.3 Nirmal Kumar Biswal has paid above amount to accused no.1 Zunzar Pawar, through N.G.Kulkarni, a Tax Consultant. This witness seems to be apparently staff of very coaching classes, whose premises were allegedly raided. Likewise are the statements of other staff of the coaching classes namely Santosh Ramdas Bobade, who was a Counselor.

Therefore, from above discussion, there is material in the form of statements of not only Income Tax Officials but also that of

independent witnesses, who are none other than Marketing Executive and Counselor of the Gurukul Coaching Classes which is run by accused no.3.

18. As regards to revision petitioners in Criminal Revision Application No.230 of 2025 namely Nirmal Kumar Biswal and Nandkumar Gopalrao Kuilkarni are concerned, who are partner of the classes and his Tax Consultant respectively, their roles are also appearing in the above statements. Consequently, it cannot be said that there is no incriminating material against them to make them face charge or trial.

19. I have gone through the citations relied by the learned counsel for the revision petitioners and there is not dispute about settled legal position.

20. Precisely, here chargesheet has *prima facie* material against revision petitioners. Resultantly, when no patent illegality, irregularity or perversity at the hands of trial court is brought to the notice of this Court, this Court refrains from disturbing or upsetting the impugned order. Hence, both revision applications deserve to be dismissed. Accordingly, following order is passed :

ORDER

Criminal Revision Application Nos.195 of
2025 and 230 of 2025 are dismissed.

(ABHAY S. WAGHWASE)
JUDGE

SPT