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Duration : 23 Days  
Exhibit :

**IN THE COURT OF SESSIONS JUDGE AT BOTAD**

**Criminal Revision Application No.13/2026.**

**Revisionist/  
Complainant :- Shree Ram Transport Finance Company Ltd.,  
(Shree Ram Finance Ltd.)  
Shree Hitendrasinh Chatursinh Sarvaiya,  
(Branch Collection Manager)  
(Authorized person on behalf of company)  
Aged :- 40 years, Occupation :- Service,  
Residing at 201 Second floor, Gautam Corner,  
Above the Dena Bank, Near Court, Tower road, Botad.**

**VERSUS**

**Opponent/  
Accused :- Shivkubhai Hakubhai Khachar,  
Aged :- 49 years, Occupation :- Agriculturist,  
Residing at Darbarseri, near jain derasar, Alau,  
Taluka :- Ranpur, District :- Botad.**

**Appearances :-**

**Mr. K. K. Shekh,** learned Advocate for the Revisionist/Complainant.

**Mr. D. P. Shekhaliya,** learned Advocate for the Opponent/Accused.

**Subject:-** Revision Application filed under Section 397 of CrPC.

**J U D G M E N T**

1. The present Revision Application is filed against the Order passed by the learned Chief Judicial Magistrate, Botad in CC No.2834/2022 ("learned Trial Court" for short) on 28/01/2026 below Exh. 39. It is the say of revisionist that in the case before Trial Court after examination of complainant by applicant, they have submitted a list of documents vide Exhibit 38. Along with list the documents at mark 38/1 to 38/4 are also submitted by the complainant. The complainant has submitted an application vide Exh.39 to Exhibit the documents at mark 38/1 to 38/4 which came to be rejected by the Ld. Trial Court. Further, the learned

Trial Court was pleased to observed that in the present case the deposition of the complainant is over and he has not referred the documents therefore, to bring the left over documents on record the application is submitted which is required to be rejected. Hence, the present Revision.

2. While the application is preferred, the court has raised the issue whether the application is maintainable or not before this Court and on that point, the matter has been kept for hearing and the learned Advocate for the revisionist has appeared and argued at length and briefly stated that the order passed by the learned Trial Court is erroneous, capricious and against the right of the accused. Court has considered irrelevant material while deciding the application etc., but I confine his submission only on the point of jurisdiction to entertain the present revision application.
3. Looking to the fact of the present case, it is to find out whether the present revision is maintainable or not. This court has to held firstly that the order against which revision has been filed is an interlocutory order. Instead of dealing further, I would like to rely upon the following judgments :-

**In case of SAIYED MOONNAUDDIN RIZAUDDIN V/s NURJAHANBEGUM SAYED MAYUDDIN, reported in 1983 G.L.H UJ-19,wherein it is held that:-**

"(A) CRIMINAL PROCEDURE CODE, 1973 (II OF 1974) - Sec. 397(2) - Opponent-wife had filed maintenance application and in course of trial she had given a post-card and two inland letters for production - The Magistrate refused to allow the production - Wife preferred revision application before Sessions Court for setting aside the order of Magistrate - The Sessions Judge allowed the revision application and allowed the production - Against that order husband preferred revision application challenging the order of Sessions Judge - Held, that order passed by Sessions Judge being illegal as it

is in contravention of Sec. 397(2)."

**In case of STATE OF GUJARAT vs. GAURANG MATHURBHAI LEUVA AND ORS, reported in 1999 (3) G.L.R 2325, wherein it is held that:-**

(A) CRIMINAL PROCEDURE CODE, 1973 (II OF 1974) - Secs. 397(2) - Order of trial Court exhibiting or not exhibiting a document - Order being interlocutory in nature revision application would not be maintainable - Expression "interlocutory order" explained.

Whether the order in question can be said to be the interlocutory is the question posed before me for consideration. The expression "interlocutory order" is not defined in Criminal Procedure Code. In order to judge whether the particular order is interlocutory or otherwise, the Court has to, making every endeavour, find out whether the order in question is interlocutory order. If it is found that the order passed is purely interim or temporary in nature which does not decide or touch the important rights and liabilities of the parties and give a final shape to a particular point at a particular stage during the course of the hearing the same can be termed interlocutory order. If the order substantially affects the rights and liabilities of the parties it would not be the interlocutory order. It may also be stated that intermediate or quasi-final order which determines a particular issue finally at any stage of the hearing will not fall within the ambits of 'interlocutory order'.

The document when it is exhibited, the Court while exhibiting the same does not finally decide the rights of the parties, or form any opinion, or express any opinion on the document or on the point that arises for consideration. In short, no legal complexion is given to the issues that arise for consideration. After the hearing is over, while finally adjudicating, the Court is free to discard a particular document holding that it was not duly proved or holding that the document was partly proved, namely, execution alone thereof was proved, but as the contents thereof were not proved, the same cannot be taken into account. If either of the parties later on files during the course of the hearing an application to expunge the document admitted in record, the Court may hearing the parties expunge the same if it finds that the document is not legally and correctly proved and exhibited. In short, by exhibiting the

document merits or demerits thereof are not dissected, and the rights and obligations of the parties are not finally decided, or legal complexion is not given to the issue that arises for consideration as giving exhibit to the document is the procedural aspect of the matter and it merely shows that document is formally proved. The rights and obligations of the parties are to be decided while finally appreciating the evidence for the purpose of pronouncing final verdict. In view of the matter, the order passed, admitting the letters and greeting cards, in evidence can be said to be the interlocutory order.

This revision application against the order in question is, therefore, in view of Sec. 397(2) of the Criminal Procedure Code, not maintainable as the order in question is an interlocutory order."

**In case of GOMARAM SOMARAM JAT V/s U. H. PATEL AND ANR, reported in 2000 (1) G.L.R 99, wherein it is held that :-**

**(B)** Criminal Procedure Code, 1973 (II of 1974) - Sec. 397 - Admitting a circumstance in evidence is an interlocutory order and no revision lies against that order.

Another aspect that requires to be considered is whether impugned order is assailable by preferring this revision. It is found that the order is of purely interlocutory nature. Mere admission of the document in evidence cannot be said to have affected the interest of the revisioner permanently. Admission of the statement in the case before this Court, cannot be said to have substantially affected a right of the accused/revisioner as the question of its trustworthiness or otherwise is kept open by the learned Additional Sessions Judge.

**In case of CEAT TYRES LTD., BOMBAY vs. STATE OF GUJARAT AND ORS, reported in 2007 (2) G.L.R 1437, wherein it is held that :-**

**(B)** Criminal Procedure Code, 1973 (II of 1974) - Secs. 397 and 399 - Negotiable Instruments Act, 1881 (XXVI of 1881) - Secs. 138 and 145 - Trial Court marking documents as Exhibits on basis of evidence-in-chief - Held, revision not maintainable against order giving exhibit number to document.

Against the said order, Revision Application is not tenable at law. By giving exhibits with objections recorded, to the documents, the Court is not concluding its mind. Exhibit numbers given to the documents with objections recorded, only reveal the fact that they are relevant documents. Relevancy is seen by the Court. Merely because the respondents have objections, and therefore, the Court cannot give exhibit numbers is not the procedure to be adopted. On the contrary, as stated in the case of Bipin Shantilal Panchal, [2001 (3) GLR 2024 (SC) : 2001 (3) SCC 1], such objection should be recorded and subject to it, exhibit number ought to be given."

4. Upon going through and relying upon the above judgments, it is crystal clear that the order passed by the learned Trial Court is purely interlocutory order and revision against the same is not maintainable before this Court. The present order came to be passed without calling the record and proceedings, but for me the application submitted with the revision is sufficient to decide this issue. It is required to be noted at this juncture that the **Hon'ble Allahabad High Court has in the case of Vishvnath Prashad V/s. State of U.P. reported in 1998 Criminal Law Journal Page 2354 (Allahabad)** held that **it is not necessary in every case for the Court of revision to summon the record of lower court and summoning of record is not a pre-requisite for a just decision.** The Trial Court has mentioned that without following provisions of Evidence Act, no evidence can be produced and admitted in evidence. Therefore, on the point of law also there is no illegality in the order of the learned Trial Court. Though, the documents submitted at the time of filing of complaint can only be taken into consideration thereafter no document can be subsequently brought on record though the right of evidence survive is not proper proposition of law, but parties can produce the documents with the permission of the Court and to prove the same witness can be examine. The procedural law are not to be strictly construed.

5. Be that as it may, the right to exhibit the document at mark 38/1 to 38/4 is still survive as applicant can examine the witness and then pray before the court to exhibit the documents. Therefore, as referred hereinabove, the judgments of the Hon'ble High Court as well as Hon'ble Apex Court are applicable to the fact of present case and the revision is not maintainable and therefore, without entering into the merits of the present revision application, the following order is passed :-

**ORDER**

- The present revision application is hereby rejected at the threshold without entering into the merits of the case.
- Revisionist/applicant is at liberty to adduced the oral evidence to Exhibit the document at mark 38/1 to 38/4.
- Copy of this judgment be send to the learned Trial court.

Pronounced in the Court today i.e., on this **23<sup>th</sup>** Day of **March, 2026**.

DATE : 23/03/2026  
B O T A D.

**(M. J. PARASHAR)**  
SESSIONS JUDGE,  
BOTAD.  
CODE No.GJ00463