



Received on : 18/07/2025
Registered on : 18/07/2025
Decided on : 02/06/2026
Duration : 9 Months &
26 Days
Exhibit :

=====

IN THE COURT OF SESSIONS JUDGE AT BOTAD

=====

CRIMINAL REVISION APPLICATION NO.28/2025

Applicant/ :- Axis Bank Ltd (Varachha road, Surat Branch)
Revisionist Branch ID :848, Varachha road, Surat Rudrax Arcade, 6,
Hans Society Varaccha road, Varaccha Surat, Gujarat, Pin
395006.

Through its Branch Head
Motwani Bhavesh Bhagwandas.
VarachhaRoad.Operationshead@axisbank.com
VarachhaRoad.Branchhead@axisbank.com

Versus

Opponents :- 1) **The State of Gujarat (through Public Prosecutor),**
Cyber Crime Police Station Botad
SP Office, Botad, Gujarat – 364710
Cybercrime-btd@gujarat.gov.in
2) **Solanki Hiteshbhai Nagajibhai**
Gadhda, Botad, Gujarat - 364750.
9725243555 hsolanki003.hs@gmail.com

Appearance :-

Learned Advocate Mr. V. G. Vadodaria for the Applicant/Revisionist.
Learned P.P. Mr. K. M. Makwana for the Opponent No. 1.
Learned Advocate Mr. S. K. Parmar for the Opponent No.2.

=====

Subject :- Revision application filed under Sections 438, 439, 440 and 441
of the Bharatiya Nagarik Suraksha Sanhita, 2023 against the order
passed by the Learned 2nd Additional Judicial Magistrate First
Class, Botad.

-:: JUDGMENT ::-

[1] The present criminal revision application has been preferred by the
applicant/revisionist under Section 438, 439, 440 and 441 of the

Bharatiya Nagarik Suraksha Sanhita, 2023 challenging the order passed by the Learned 2nd Additional Judicial Magistrate First Class, Botad in CRMA J No.123/2025 dtd.08/03/2025.

- [2] The brief facts leading to the filing of the present Revision Application are that the applicant/revisionist is a Banking Company duly registered under the provisions of Companies Act, 1956 as also under the Banking Regulation Act 1949. That the Ld. Trial Court has directed to the applicant/revisionist Bank to deposit the amount of Rs.24,000/- into the account of original complainant from Axis bank Account No. 911010062395737 bearing IFSC Code No.UTIB000848. Further, the Opponent No.2 alleges that a fraud was played upon him for which the complaint was filed by him with Opponent No.1. The applicant/revisionist – Bank on 12/11/2024 marked lien amounting to Rs Debit Freeze/- in Account No. 911010062395737 bearing IFSC Code No.UTIB0000848 based on instruction received on 12/11/2024 from Opponent No.1. There after the applicant/revisionist-bank received email dated 18/03/2025 by Opponent no. 1 with impugned order directing the Bank to release a sum of Rs.24,000/- into the account of original complainant from Axis bank Account No. 911010062395737 bearing IFSC Code: UTIB0000848. The Applicant/revisionist - Bank further states that credit balance available in Account No. 911010062395737 bearing IFSC Code: UTIB0000848 is Rs.35489.47/- and account contains various liens and debit freezes from various statutory authorities as mentioned more particularly in point No. 10 below, on the date of making this application therefore it is not possible to transfer 24000/- as per the impugned order without the revised order of this Hon'ble addressing and acknowledging the fact that other claimant are also there and on basis of their complaint there are multiple freeze also in the account. The Account No. 911010062395737 bearing

IFSC Code: UTIB0000848 belongs to Prakashbhai Dineshbhai Khunt. The Applicant/revisionist - Bank had received several other directions to 'freeze/attach/lien' in the Account No. 911010062395737 bearing IFSC Code: UTIB0000848. The directions issued by the other Investigating authorities/Claimants including opponent no. 1 are mentioned at page 3 & 4 of the application. Therefore, the applicant/revisionist has prayed to set aside the order passed by the Learned Trial Court and allow this application. The Learned Trial Court allowed the said application and passed an order in favour of present Opponent no.2. Being aggrieved and dissatisfied with the said order, present revision application has been preferred by the applicant/revisionist under Section-438, 439, 440 and 441 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

- [3] The Ld. Advocate for the applicants has argue all grounds mentioned in the present revision. Besides routine contentions, he has stated that the order passed by the Learned Trial Court is contrary to the established principle and principle of equitable justice and hence, it is liable to be set aside. He has further submitted that the Ld. 2nd Additional Judicial Magistrate First Class, Botad has passed an order in CRMA J No.123/2025 dtd.08/03/2025 without hearing the complainant/revisionist. It is further submitted that however, the Learned Trial Court proceeded with the matter in the absence of the advocate representing the present applicant/revisionist. It is further urged that appropriate orders be passed in the interest of justice. It is further submitted that the Ld. Trial Court without hearing present applicant/revisionist passed an order in favour of other side i.e., present opponent no.2. Therefore, short and some submissions are such that if the Ld. Trial Court ought to have made party to present revisionist or they have been heard prior to passing of the order, the revisionist would have been in a position to explain that no existing balance is available

for payment to opponent no.1 by the reason that the amount available in the account is far lesser than the request to freeze the amount as been received. Therefore, the bank is not in position to honour of order Ld. Trial Court. Therefore, either be pleased to set aside the order or remand the order of the Ld. Trial Court to hear afresh and revisionist may allowed to put-up their defense or the factual deposition which may help the Ld. Trial Court to arrive to a logical conclusion. Further, learned advocate for the applicant/revisionist has placed his reliance upon the judgment passed by Hon'ble Karnataka High Court in the case of Rahul Chari and Ors Vs. The State of Karnataka and Ors. in W.P No.2865/2022 wherein the Hon'ble High Court has held that in these type of case, the bank is necessary party and required to be heard before passing necessary order.

[4] Per contra, learned PP and Advocate for the Opponent No.2 has submitted that the judgment and order passed by the learned Trial Court is just, proper and reasonable and there is no requirement to interfere with the said judgment and order. He has further submitted that the learned Trial Court has very well scrutinized the documents placed on record. Further, he submitted that the Learned Trial Court after considering the entire evidence of both the sides and evaluating the same in its true perspective has passed a well reasoned order and hence, no interference is called for by this Court. It is further stated that, the Learned Trial Court has correctly appreciated facts of the case and documentary evidences on record and thus, has prayed to dismiss the present appeal.

[5] In view of the materials placed on record, the following issues are formulated for the consideration of this revision:-

(1) Whether the order passed by the learned Trial Court below the said application is illegal, unjust and perverse ?

(2) Whether interference of this Court is needed ?

(3) What Order ?

[6] My findings on the above issues are as under.

(1) In Affirmative.

(2) In Affirmative.

(3) As per final Order.

:: R E A S O N S ::

Issue Nos. 1 & 2 :-

[7] Heard, Learned for the respective parties. Looking to the fact of the present case, the account details of account bearing No. **911010062395737** existing Pre-Freeze / lien marked / Courts orders in the said accounts stated in the application at page **3 & 4**. Upon perusal of the same, it appears that the amounts available in the suspected account of the reported accused, as on the date of the Order is **Rs.35,489.47/-** only and Bank has marked Lien for recovery of other victims as above for **Rs.3,10,101/-** or more as directed by and in compliance of notices of various Cyber Crime Authorities and Court Orders as referred herein above is already exists, and hence there is Negative balance of **Rs.2,74,611/-** and therefore, there is no clear available balance to be paid to the said Claimant. The said fact was never of brought to the notice of Ld. Trial Court, it is also on record that the Ld. Trial Court has not heard the present revisionist Bank before passing any order. Therefore, the situation arise is wherein an order passed by the Trial Court could not be executable. In case of Rahul Chari (Supra) it is categorically held that Bank is necessary party in before passing such order. Further, the principle of necessary justice are violated and necessary has not heard therefore, the order of Ld. Trial Court is required to be remanded back and after giving an opportunity of hearing to the revisionist may pass an appropriate order.

- [8] In view of the entire facts and circumstances, I am of the view that the order of the learned Trial Court is illegal, unjust and perverse. I found necessity to interfere with the order passed by the learned Trial Court for the aforementioned reasons and accordingly, I answer issue No.1 in Affirmative. Therefore, I am of the view that the order of the learned Trial Court is not just and proper. Furthermore, the order passed by Ld. Trial Court is illegal, unjust and perverse therefore, I found necessity to interfere with the order passed by the learned Trial Court and accordingly, I answer issue No.2 in Affirmative.

Issue No. 3:-

- [9] In the above premises, I answer issue No.3 as per following final Order :-

ORDER

1. The present revision application is hereby allowed.
2. The Order passed by the learned 2nd Additional Judicial Magistrate, F.C., Botad, below Exhibit-1, in CRMA No.123/2025 is hereby set aside.
3. The Ld. Trial Court is directed to hear the matter afresh after giving opportunity to the applicant/revisionist to plead and argue and then pass appropriate order in the interest of justice.
4. R&P, be returned to the Trial Court along with copy of this order.
5. No order as to costs.

Pronounced in the Court today i.e., on this **02nd** Day of **June, 2026**.

DATE :- 02/06/2026
BOTAD.

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