

GJKH010031202025



Presented on : 05-05-2025
Registered on : 05-05-2025
Decided on : 23-06-2026
Duration :

**IN THE COURT OF
PRINCIPAL DISTRICT & SESSIONS JUDGE
KHEDA AT NADIAD
PRESIDED OVER BY MR. PARVEEN KUMAR**

Criminal Revision Appl. No. 72 of 2025

Exhibit No.:

Revisionist :-

Vikrambhai Amratbhai Purabiya,
Age:- 40 Years, Occ. Sweeper,
R/o. Village: Harijanvas,
Tal: Mahemadavad Dist: Kheda.

V E R S U S

Respondent:-

Sachin Hasmukhbhai Sukhadiya & Ors.

Appearance :-

Ld. Advocate **Mr. D. B. Author**, for the Revisionist.
Ld. Advocate **Mr. M. H. Trivedi** for the Respondent.
Ld. APP **Mr. P. R. Tiwari**, for State.

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

- 1] This Revision Petition is directed against the order, dated 01-03-2025, passed below Exh. 21, by which, Ld. JMFC, Mahemadavad, rejected the application moved by the defacto complainant, for adding sections of 307, 325, 392, 393, 394, 397 & 398 of the IPC, in connection with FIR No. 11204041210065 of 2021, lodged under sections 304,

323, 504, 506(2) & 114 of IPC, with the Mahemadavad Police Station. It is added here that on basis of Police Investigation, section 326 IPC, was added and accepted on 19-01-2026, by the Ld. JMFC, Mahemadavad.

- 2] The Notice of this revision application was served to the opponents-accused and State. Learned Advocate Mr. M.H. Trivedi put in appearance for the opponents-accused and Ld. APP Mr. P. R. Tiwari put in appearance on behalf of State.
- 3] The case of Prosecution, in nutshell, is that FIR, was registered on the first information statement of Vikarambhai Amratbhai Purabiya, interalia alleging that on 14/01/2021, at 1:30 PM, he was standing in front of his house, at that time, Sachin Hasmukhbhai Sukhadiya, passed in his vehicle, upon which, he asked him to drive moderately but he started abusing him and left after beating him. At 1:45 PM, Chandreshbhai Sukhadiya, having sword, along with Sachin Sukhadiya, Dingo Sukhadiya and Narottam Chandreshbhai came and started abusing him, so he asked them not to abuse, but Chandreshbhai Sukhadiya, gave him sword blow on the elbow of left hand, because of that there was a cut in his skin and blood oozed out. He again gave blow of sword which was stopped by him with the hand and the skin of the left hand had also been cut. Hearing noise, his brother Nayanbhai came there and tried to save him, but Sachin, Dingo and Narottambhai gave him kick and fist blows and Chandresh gave sword blow on the right hand of his brother Nayan and on the palm of left hand of his brother,

because of which the blood oozed out. From the nearby Mohalla, scores of people, gathered there and all these four persons left the place while extending threats to kill him in future. They were initially shifted to Mahemadavad Government Hospital and later to Ahmedabad for further treatment.

- 4] Learned Advocate for Revisionist has contended that; *from the contents of the FIR, it is apparent that accused intended to cause the death of the complainant, but investigating agency did not add the section of 307 IPC; in the offence under section 307, the intention only is to be seen, but neither investigating agency nor the trial court took cognizance of the same; the doctor has been examined vide Exh. 26, and he has specifically stated that according to his opinion, after going through the injuries on the person of, both the injured, there was possibility of death, because of hypovolumic shock, if access amount of blood is drained out and proper treatment was not met; the photographs of the injured clearly reveal the nature of injuries and therefrom, the intention of the accused can be ascertained that it was a murderous assault with intent to kill the complainant; Ld. Trial Court has ignored the allegations of loot of gold etc.* Broadly with these submissions, he has prayed to allow the present revision petition. He has placed reliance on judgment **Shoyeb Raja Vs. State of Madhya Pradesh & Ors, in Criminal Appeal No. 3327 of 2024.**
- 5] Ld. Counsel for the Opponents-Accused has contended vehemently that; *from the perusal of the FIR, nothing is*

reflected that accused did attack with the intention to kill the complainant; the injuries on the person of injured have not been opined as endangering human life; the Ld. Trial Court has rightly appreciated the facts, by rejecting the application of the revisionist; there are no allegation of robbery; the order passed by Ld. Trial Court is perfect, hence, needs no interference. Broadly with these submissions, he has prayed to reject the instant Revision Petition.

- 6] Ld. APP, for the state has prayed to pass Order as per law in the interest of justice.
- 7] In view of the rival contentions of the parties, the following points arise for determination :
 - 1) Whether the impugned order is liable to be interfered with?
 - 2) What order ?
- 8] My findings to above points follow as :
 - 1) In the Negative.
 - 2) As per final Order.

// R E A S O N S //

- 9] It is a settled proposition of law that revision is a process for the satisfaction of the revisional court regarding the legality, propriety or correctness of any sentence, findings and order of any inferior court. In the case of **Malkeet Singh Gill V/s State of Chhatisgarh, 2022 (8) SCC 204**, it has been held that "the scope of interference in revision is extremely narrow. The object of the provision is to set right a patent defect or any error of jurisdiction of law. There has to be well founded error which is to be

determined on the merits of individual case. It is also well settled that while considering the same, the Revisional Court does not dwell at length upon the facts and evidence of the case to reverse those findings".

- 10]** Perusal of the impugned order reveals that application for addition of sections 307, 325, 392, 393, 394, 397 & 398 of the IPC, was dismissed by Learned Trial Court, by taking into consideration the facts; *no any prima-facie evidence appears to be there that the complainant and the witnesses were wearing gold chains, ring or lucky; complainant in his complaint, has not mentioned about the facts of loot; from the medical evidence, no any injury showing loot is there; the injuries on the persons of complainant and injured, do not show applicability of 307 IPC; the ingredients of section 325 IPC, are included in the section 326 IPC.*

- 11]** It is added here that in the case law titled as **Pritam Singh Versus State Of Punjab 2010 (0) AIJEL-PH 1629171**, it has been observed in the para numbers 30,33 34, 35 and 36 as:-

30. The complete reading of this provision would suggest that in order to convict a person under Section 307 IPC, the intention or the requisite knowledge to cause death are the essential ingredients. An attempt for purpose of Section 307 IPC should stem from a specific intention to commit murder. That means, an act though sufficient in the ordinary course of nature to cause death, would

not constitute an offence under this Section, if the necessary intention or knowledge on the part of the accused is lacking. Thus, for the purpose of this offence, what is material, is the intention or knowledge and not the consequence of the actual act done for the purpose of carrying out that intention. Intention and knowledge being a man's state of mind, cannot be proved by direct evidence thereof except through his own confession. In the absence of such a confession, intention and knowledge can only be proved by circumstantial evidence. These are the matters of inferences from all the facts and circumstances available on record.

33. There is another aspect of the matter which can be viewed from a different angle. As per medical evidence of PW5, there was a stab wound 2.5 x 1 cm on the left side of back of abdomen, 13cm above the hip bone. *In addition to it, PW5 declared injury as could be dangerous to life as per operation notes. He did not operate PW1. It was PW6, who conducted the operation but he has not given his opinion with regard to the nature of injury that it was sufficient in the ordinary course of nature/life to cause death. The police did not obtain this indicated opinion from PW6, who actually conducted*

the operation for the reasons best known to it. On dissection, PW6 found a 5 cm long cut present on the cortex of left kidney on its outer surface which was stitched with chromic catgut. PW1 has explained in his cross-examination that he remained in the hospital for about 25 days. Therefore, the opinion in this regard by PW5 on the basis of operation notes and not by PW6, who actually conducted the operation, pales into insignificance.

34. Be that as it may, even PW5 has simply declared the injury; as could be dangerous to life. Meaning thereby, the words "dangerous to life" are equivalent to "endangering life" and such acts squarely covered within the ambit of clause Eighthly of Section 320 IPC, which is punishable under Section 326 IPC. The distinction between the words "dangerous to life" and "endangering life" came to be determined by a Division Bench of this Court in **Atma Singh V/s. The State of Punjab, 1982(2) CLR 496** and it was held as under :- "Held, that the expression 'dangerous' is an adjective and the expression 'endanger' is verb. An injury which can put life in immediate danger of death would be an injury which can be termed as 'dangerous to life' and, therefore, when a doctor de-

scribes an injury as 'dangerous to life', he means an injury which endangers life in term of clause 8 of Section 320, Indian Penal Code, for, it describes the injury 'dangerous to life' only for the purpose of the said clause. He instead of using the expression that this was an injury which 'endangered life' described it as 'dangerous to life', meaning both the time the same thing".

35. The same view was expressed by this Court in cases **Tej Ram V/s. The State of Punjab, 1987(1) R.C.R.(Criminal) 611:1978 (6) CLR, 76 and State of Punjab V/s. Tara Singh, 1987(1) Recent Criminal Reports (Criminal) 184**, that injury described by the doctor as 'dangerous to life' and if not treated i.e. to say that but for timely and medical aid the injured was likely to die. Such type ,of injury/opinion is not the type of the injury as would attract the provisions of Section 307 IPC, which envisages an injury sufficient in the ordinary course of nature to cause death, such injury would fall within the ambit of clause Eighthly of Section 320 IPC, would be punishable under Section 326 IPC and in view of such opinion, charge under Section 307 IPC cannot be sustained. The law laid down in the aforesaid judgments mutatis-mutan-

dis, is applicable to the facts of this case.

36. Therefore, it is held that appellant-Pritam Singh did not intend to attempt to commit murder of PW1, but he only intended to and caused the grievous injury. He cannot possibly be held guilty of an attempt to murder with the offence prescribed under Section 307 IPC. This act of appellant- Pritam Singh squarely falls within the ambit of clause Eighthly of Section 320 IPC, which is punishable under Section 326 IPC. To this extent, the trial court appears to have gone legally wrong in this relevant connection.

- 12] From the perusal of the FIR, it appears that complainant has not levelled any allegation regarding loot of any gold ornaments. Ld. Counsel for revisionist has referred the photographs and other documents produced at the time of arguments, as well as the deposition of Dr. Chandrakant Rajabhai Makwana, who has been examined vide Exh. 28, in the criminal case 298 of 2021, before the Court of Ld. Addl. Judicial Magistrate First Class, Mahemadavad, in which, Doctor has given his opinion, in examination-in-chief that after going through the injuries of both the injured, if blood is drained out, in excessive manner and immediate and proper treatment is not met, then, due to hypovolemic shock, injured could have died. In the case of **Pritam(supra)**, it has been specifically stated in Para No. 35, *that the injury described by the doctor as 'dangerous*

to life' and if not treated i.e. to say that but for timely and medical aid the injured was likely to die. Such type ,of injury/opinion is not the type of the injury as would attract the provisions of Section 307 IPC, which envisages an injury sufficient in the ordinary course of nature to cause death, such injury would fall within the ambit of clause Eighthly of Section 320 IPC, would be punishable under Section 326 IPC and in view of such opinion, charge under Section 307 IPC cannot be sustained.

- 13]** The observations passed in the Judgment referred to supra, applies mutatis-mutandis, in the given fact situation and there appears no illegality or perversity in the order passed by the Ld. Trial Court, while rejecting the application of the applicant. Hence, the Order passed by Ld. Trial Court, requires no interference and Point No. 1 is answered in the Negative and in regard to Point No. 2, following order is passed.

ORDER:

1. This Revision Application is hereby rejected.

Pronounced in open Court on this 23rd day of June 2026.

Date : 23/06/2026.

Place: Nadiad.

(PARVEEN KUMAR)
Principal Dist. & Sessions Judge,
Kheda at Nadiad,
GJ01511

Adesh-Directly dictated and typed on Dias Computer.