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IN THE COURT OF ADDITIONAL SESSIONS JUDGE OF
NAVSARI, AT. NAVSARI.
(Presided by Mr.C.G.Mehta)

Cri. Rev.Appl. No.12/2023:-
Exh.No. 20

Applicant :- **Rajesh @ Raju @ Cheko @ Dattasaheb,**
Narendrabhai Trivedi,
Hindu, Aged about 46, Occ.Business,
Resi.at.B-26, Chtrakoot Dham,
Opp.Kumkum Vidyalaya, Maninagar,
Ahmedabad.
Ori.resident of Jawahar Chowk, Suthar gali,
Opp.Khadi Bhandar, Surendranagar.

Versus

Opponent :- **The State.**
(Summons/notice to be served at
District Government Pleader office)

Ld.Adv.Mr.V.D.Naik, for the applicant.
Ld.A.P.P.Mr.B.G.Gupta, for the opponent .

Subject:- Revision Application as per Section 397 of
Criminal Procedure Code.

-.:JUDGMENT:-

1. Introduction

The present Criminal Revision Application is filed by the applicant-accused under section 397 of the Code of Criminal

Procedure challenging the order dated 03/12/2022 passed by the Ld.Chief Judicial Magistrate, Navsari, below Exh.5, in Criminal Case No.1511 of 2019, whereby, the Ld. Trial Court rejected the application filed by the applicant under section 239 of the Code of Criminal Procedure seeking discharge.

2. Case of the Applicant:-

2.1 The applicant has stated in his Revision Application that, the Ld.Trial Court has committed serious error in rejecting the discharge application. It is contended that, the original complaint was lodged alleging demand of illegal gratification in the name of PSI Mr.Soni, and the offence was initially registered under the provisions of the Prevention of the Corruption Act along with Indian Penal Code. However, during the course of investigation, the allegation of corruption against the present applicant was not substantiated and ultimately, charge sheet came to be filed against the applicant for offences under sections 170, 419, 420, 468, 477 and 204 of the IPC.

2.2 It is further contended that, there is no direct evidence connecting the present applicant with the alleged offences. The investigating agency has not conducted any test identification parade of the shopkeeper who allegedly sold the sim card. It is further contended that, even if the prosecution is accepted as true, it does not establish the election card in the name of Gitaben Ashwinbhai Mehta, was forged by the applicant.

2.3 It is further submitted that, Ld. Trial Court has mainly relied upon the police statement of witnesses namely, Alkaben and Gitaben, which were recorded after a considerable delay from the date of registration of the offence. According to the applicant, such delay creates serious doubts regarding the prosecution story. It is further contended that, the statements of the said witnesses are contradictory and unreliable. It is therefore, contended that the material collected during investigation does not disclose the essential ingredients of the alleged offences and hence the applicant deserves to be discharged.

3. **Submissions by Ld. Advocate for the applicant :**

Ld. Advocate Mr.V.D.Naik, for the applicant mainly relied on facts narrated in this revision application and also relied on the citations referred in revision application and submitted that, this application deserves to be allowed.

4. **Submission on behalf of Opponent-State:-**

Ld. A.P.P. Mr.B.G.Gupta, appearing for the opponent-State has opposed the present revision application and submitted that, the Ld. Trial Court has rightly rejected the discharge application after considering the material collected during the investigation. It is submitted that the material on record clearly discloses a prima facie case against the applicant and there are sufficient grounds to proceed with trial. The Ld. Public Prosecutor has further contended that, at the stage of discharge a detailed appreciation of evidence is not required and the defense raised by the applicant cannot

be considered at this stage. It is therefore, submitted that, the impugned order is illegal and proper and does not call for any interference by this Court in exercise of revisional jurisdiction. Hence, it is prayed that, the present revision application be dismissed.

5. **Following points for determination arise to decide present application.**

Point of determination

- (1) Whether the Ld. Trial Court has committed any illegality, impropriety for material irregularity in rejecting the applicant for discharge filed by the applicant under section 239 of the Code of Criminal Procedure ?
- (2) Whether the impugned order requires interference by this court in exercise of revisional jurisdiction ?
- (3) What order?

6. **Answer to the above points are as under:-**

1. In the Negative.
2. In the Negative.
3. As per the Final Order.

7. **Discussion and reasons.**

7.1 I have carefully considered the contentions advanced by the Ld.Advocate for the applicant in this revision application and have perused the impugned order as well as papers on record.

7.2 The record indicates that, the complaint was initially lodged alleging that a phone call was received by the

complainant demanding an amount of Rs.50,000/- in the name of PSI Mr. Soni, in connection with a rape complaint allegedly filed against the complainant's husband. During investigation it was revealed that, the phone call demanding money was made from mobile no. 9157340061.

7.3 Further investigation revealed that, the sim card of the said mobile number was obtained in the name of Gitaben Ashwinbhai Mehta. The investigating agency collected material indicating that the sim card was purchased from a mobile shop at Ahmedabad and the documents used for purchasing the sim card were seized by drawing necessary panchnama.

7.4 The investigation further reveals that, the election card of Gitaben was obtained through witness Alkaben, who is acquainted with the applicant. The statement of witness Alkaben indicates that, the election card of Gitaben was taken by the applicant and the photograph of Alkaben was also taken by him. According to the prosecution case, the said documents were used for obtaining the Sim card in the name of Gitaben and said mobile number was subsequently used for making the call demanding money.

7.5 The contentions raised by the applicant that, there is no direct evidence against him cannot be accepted. It is a settled principle of law that, an offence can be established not only by direct evidence but also on the basis of circumstantial evidence. At the stage of discharge, the Court

is only required to see whether the material on record raises a strong suspicion regarding the involvement of the accused.

7.6 The contentions raised by the applicant regarding delay in recording the statements of witnesses, absence of identification parade of the shopkeeper and alleged contradictions in the statements are matters relating to appreciation of evidence which can only be examined during the course of trial. At the stage of discharge, the Court is not expected to conduct a detailed appreciation of evidence or to examine the reliability of witnesses.

7.7 The Ld. Advocate for the applicant has relied upon following case laws in support of his submissions

(1)	<i>Satish Mehra 1996 crime page No. 85 volume 3</i>
(2)	<i>2001 (2) Gujarat Law Reporter 1029 Suresh Chhotalal Verma Vs. Gujarat (3) 1996</i>
(3)	<i>Crimes 288 Supreme Court</i>
(4)	<i>AIR 1979 SC 366.</i>

7.8 However, the said decisions are distinguishable on facts. In the present case the investigation has revealed certain incriminating circumstances which prima facie connect the applicant with the alleged offence. Therefore, the ratio laid down in the judgments relied upon by the applicant would not assist the applicant in seeking discharge at this stage.

7.9 It is also a settled principle of law that, at the stage of considering the discharge, the Court is only required to see

whether the material conducted during the investigation discloses a prima facie case or raises a strong suspicion regarding the involvement of the accused. The Court is not required to evaluate the evidence as if it were conducting the trial. If the material collected during investigation indicates the possible involvement of the accused, the matter must be allowed for trial.

7.10 Considering the material placed on record, this Court is the opinion that, there are sufficient grounds to proceed against the applicant. The Ld. Trial Court has rightly appreciated the scope of section 239 of the Code of Criminal Procedure and has correctly rejected the discharge application.

7.11 Therefore, the impugned order does not suffer from any illegality, impropriety or material irregularity warranting interference in revisional jurisdiction. Hence, I answer point No. 1 & 2 in negative and point No. 3 shall follow the final order.

ORDER

- (1). The present criminal revision application filed by the applicant-accused is hereby dismissed.
- (2) The order dated 03/12/2020 passed by the Ld. Chief Judicial Magistrate, Navsari, below Ex. 5 in Criminal Case No. 1511 of 2019 rejecting the discharge application filed under section 239 of the Code of Criminal Procedure is hereby confirmed.
- (3) It is clarified that, the observations made in this

order are prima facie in nature and the Ld. Trial Court shall decide the case on its own merits without being influence by any observations made herein.

- (4) Record and Proceedings, if any, be sent back to the Ld.Trial Court, forthwith.

Pronounced in the open court today on 23.03.2026,
Navsari.

Date :23.03.2026
Place: Navsari.

[**Chinmay Ghanshyambhai Mehta**]
Additional Sessions Judge,
Navsari.
UID. No.GJ 00534

jas/-