

CNR No. GJSN010001172023

Received on :27/01/2023

Registered on :27/01/2023

Decided on :16/06/2026

Duration : Y M D

3 4 19

Exhibit : 9

**IN THE COURT OF THE SESSIONS JUDGE,
AT :::::::::: SURENDRANAGAR.**

Cri. Revision Application No. 3/2023.

Jasminkumar Kanubhai Patel,,
Parnter of Union Construction Co.
Res. At ; near Peoples Bank,
Behind Central Complex , Wadhwan (Surendranagar)
At present ; Joravarnagar,
Shradhdha Apartment, Block No.204,
Library road, Tal.Wadhwan.

.....Applicant.

- Versus -

1. Rajeshkumar Vadilal Parekh,
Res.At ; Block No.11, Jay Bharat Society,
Ratanpar (Surendranagar)
2. The responsible officers of
The District Co Op. Bank
Wadhwan branch and Printing Press
and seal manufacturer etc.

... Opponents.

Appearance ;

.....
Mr.M.K.Chauhan, L.A. for applicant.
Mr.N.I.Jani,L.A. for the opponent No.1
.....

|| JUDGMENT ||

1. The present Criminal Revision Application has been filed by the applicant / original complainant challenging the order dated 26/07/2022 passed below Exh.1 by the learned J.M.F.C. Wadhwan (“the learned Trial Court”) in Criminal Inquiry No. 29/2016, whereby the complaint filed by the applicant came to be dismissed.

2. Short facts leading to the filing of the present Revision Application are that the applicant/ original complainant, Jasminkumar Kanubhai Patel filed a complaint before the learned trial court against the present opponents alleging commission of offences punishable under Sections 406, 420, 463, 464, 465, 467 and 468 of the IPC by the opponents. As per the complaint of the complainant, accused Rajeshkumar Vadilal Parekh and Vadilal Harjivandas Parekh in connivance with certain officials of Surendranagar District Co-operative Bank Ltd., Wadhwan Branch, fraudulently opened and operated a bank account in the name of “Union Construction” by using forged documents, forged signatures, fake seals and fabricated partnership records without the knowledge or consent of the complainant. It was further alleged that though the sub-contract between the parties had already been finalized on 01/08/2009 and full payment Rs.27,60,272/- was made on 12/04/2011, the accused continued to create false transactions and documents for wrongful gain, thereby causing financial loss to the complainant. That despite written complaints to the police authorities and Economic Offences Cell, no action was taken .

3.1 In view of the above facts, the complainant filed a written complaint before the learned Trial Court on 27/07/2016 and thereafter, considering the averments of the complaint and documentary evidence and report submitted by the investigating officer, the learned Trial Court was pleased to dismiss the said complaint by order dated 26/07/2022 below Exh.1.

4. Being aggrieved and dissatisfied with the said order passed by the learned trial court, the present revision application has been preferred by the applicant / original complainant.

5. I have perused the record and proceedings and documents produced and written arguments submitted by the applicant in the present application at Exh.8 and heard learned advocate Mr.N.I.Jani for the opponent No.1.

6. As per the written argument submitted by the applicant/ original complainant at Exh.8 the impugned order dated 26/07/2022 passed by the learned Trial Court in Criminal Inquiry No. 29/2016 is illegal, arbitrary, perverse, and suffers from non-application of mind, and is contrary to the settled position of law. The learned Trial Court has committed a grave error of law in dismissing the complaint despite the existence of ample prima facie material disclosing the commission of offences by the opponents. That accused Rajeshkumar Vadilal Parekh and Vadilal Harjivandas Parekh in connivance with certain officials of Surendranagar District Co-operative Bank Ltd., Wadhwan Branch, fraudulently opened and operated a bank account in the name of "Union Construction" by using forged

documents, forged signatures, fake seals and fabricated partnership records without the knowledge or consent of the complainant to create false transactions and documents for wrongful gain, thereby causing financial loss to the complainant as mentioned in the complainant, application and written arguments. In a nutshell, as per submission of the applicant, in view of the above and in the interest of justice, the present Criminal Revision Application is required to be allowed by setting aside the impugned order passed by the learned trial court.

7. On the other hand, learned advocate Mr.N.I.Jani for the opponent No.1 has submitted that the revision application is false, vexatious and filed only to harass the opponents. That the applicant has suppressed these material facts and has not approached this Hon'ble Court with clean hands. Learned advocate Mr.N.I.Jani has submitted that the impugned order is legal, reasoned and proper, and calls for no interference.

8. After considering the rival submissions of the parties and perusing the record and proceedings and impugned order passed by the learned trial court, the following points arise for determination of the present revision application ;

:: Points ::

1. Whether the order dated 26/07/2022 passed below Exh.1 by the learned J.M.F.C. Wadhwan, in Criminal Inquiry No. 29/2016, dismissing the complaint of the applicant/original complainant, is arbitrary, illegal and contrary to the settled principles of law, and therefore deserves to be set aside ?
2. What order?

9. My findings on the above points are as under:-
1. In the negative.
 2. As per final order.

|| Reasons ||

Point No.1 :

10. It is a settled principle of law that the revisional power can be exercised by the Revisional Court only in rare cases, to prevent miscarriage of justice, and where there is a glaring defect in the procedure or an error of law resulting in failure of justice. When the Trial Court is found to have committed a patent illegality, the Revisional Court can invoke its powers of revision.

11. Short facts of the complaint of the complainant has already been narrated herein above and the allegations of the complainant against the accused are that accused Rajeshkumar Vadilal Parekh and Vadilal Harjivandas Parekh in connivance with certain officials of Surendranagar District Co-operative Bank Ltd., Wadhwan Branch , fraudulently opened and operated a bank account in the name of “Union Construction” by using forged documents, forged signatures, fake seals and fabricated partnership records without the knowledge or consent of the complainant. It was further alleged that though the sub-contract between the parties had already been finalized on 01/08/2009 and full payment Rs.27,60,272/- was made on 12/04/2011, the

accused continued to create false transactions and documents for wrongful gain, thereby causing financial loss to the complainant.

11.1 On perusal of the record and proceedings more particularly the report submitted by the investigating officer, Wadhwan Police Station at Exh.4 along with the statement of the applicant/ original complainant, it transpires that the investigating officer has recorded the statement of the applicant/ original complainant on 22/07/2022, which clearly shows that the incident pertains to the year 2009 in relation to a partnership agreement for a period of three years, which came to an end in the year 2011. Thereafter, the notice was issued by the applicant on 18/09/2014 and the present matter was filed in the Court in the year 2016 and in connection with the said dispute, the opponents had also filed a case against the applicant before Wadhwan Court, wherein the applicant succeeded and against the said judgment, the opponents have preferred an appeal before the Gujarat High Court and as per the say of the applicant in the statement recorded by the investigating officer, the said proceedings are pending and therefore, the applicant/ original complainant does not wish to pursue any police action or complaint in the matter.

12. Hence, considering the aforesaid statement of the complainant, facts, circumstances, statement of the applicant/ original complainant and such report submitted by investigating officer before the learned trial court, the learned trial court has rejected the complaint of the complainant.

13. Hence, in view of the aforesaid facts and discussion, the complainant has failed to prima facie establish any material disclosing the commission of the alleged offences by the opponents and the grounds raised in the present application are devoid of substance.

14. Hence, considering above, the order of the learned trial court dismissing the inquiry is just and proper and I do not find any reason to interfere with the findings of the learned Trial Court. The order passed by the learned trial court is just and proper and same is not arbitrary, illegal and is not against the settled principle of law. So the order passed by the learned trial court do not require any interference. The present revision application is devoid of merits and I answer issue No.1 in negative.

Issue No.2:

15. In the result , in the interest of justice the following final Order is passed.

ORDER

The present Criminal Revision Application is hereby dismissed.

The order dated 26/07/2022 passed below Exh.1 in Criminal Inquiry No. 29/2016 by the learned J.M.F.C. Wadhwan dismissing the said complaint, is confirmed.

R & P along with copy of this Judgment be sent to the learned Trial Court.

Pronounced in the open court to-day on this **16th** **day of**
June, 2026.

Date : 16/06/2026

Place: Surendranagar.

(KAILASNATH R. UPADHYAY)

Sessions Judge,
Surendranagar.

(GJ00333)