

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL REVISION APPLICATION (AGAINST ORDER PASSED BY
SUBORDINATE COURT) NO. 307 of 2026**=====

BHANUPRASAD DALPATRAM SHRIMALI

Versus

STATE OF GUJARAT & ANR.

=====

Appearance:

MR K B MAGHNANI(9673) for the Applicant(s) No. 1

MR. TAPASVI C BAROT(15562) for the Applicant(s) No. 1

MR DM DEVNANI(5880) for the Respondent(s) No. 2

MS JYOTI BHATT APP for the Respondent(s) No. 1

=====CORAM:**HONOURABLE MS. JUSTICE GITA GOPI****Date : 24/03/2026****ORAL ORDER**

1. The applicant is a retired stenographer of the Court of Valsad District. He at the relevant time, when the FIR No.1/2015 was registered with Gujarat High Court Vigilance Cell for the offences punishable under Sections 7, 12, 13(1) and 13(2) of the Prevention of Corruption Act, 1988 and under Section 466, 471 and 196 read with Section 114 of Indian Penal Code, was serving at the Court at Vapi.

2. The prosecution started on the basis of the complaint of Advocate Mr. Jagat J.Patel, mainly practicing at Vapi, who by an application dated 25.01.2015 had complained about the corrupt practice of the Junior Division Judge Vapi in discharge of his judicial work to the Hon'ble High Court of Gujarat. Consequently, on preliminary inquiry conducted by the then Registrar of Vigilance Cell of High Court of Gujarat, the

statement of complainant advocate was recorded. He submitted audio and video cassettes prepared from spy cameras which was made to be kept secretly by a peon in the chamber of the Judicial Magistrate.

3. The videos, as alleged consists of different incident, which took place from March, 2014 to May, 2014 regarding the alleged corrupt practices of the Judicial Magistrate in connivance with the colleague Judge, Advocates, Prosecutors and staff members. After extensive preliminary inquiry, it was found that the Judges, Advocates, Prosecutors and staff members were hand in gloves with the Magistrate, hence, the vigilance cell filed the FIR at the police station of Gujarat High Court.

4. The applicant being stenographer attached to the Judicial magistrate has made a prayer for discharge in the case by moving the Special Judge, Valsad in Special ACB Case No.41 of 2020, whereby the learned Special Judge was pleased to reject the application on 30.10.2025. Aggrieved by the rejection of the discharge application, the applicant is before this Court, making the prayer under revision jurisdiction under Section 438 of Cr.P.C. read with Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the order of the special Judge and to consider the case for discharging the applicant from the offences alleged in Special ACB Case No.41 of 2020.

5. Heard learned advocate Mr. K.B.Manghnani along with

advocate Mr. Tapasvi C.Barot for the applicant and learned advocate Mr. D.M. Devnani for respondent No.2.

6. Learned advocate Mr. Manghnani placed reliance on the order exonerating the present applicant in the departmental inquiry submitting that the present applicant as a stenographer of the Magistrate would have no role to play in the corrupt practice of the Judicial Magistrate and, thus learned advocate Mr. Manghnani stated that the applicant has been rightly exonerated in the departmental inquiry. Hence, prayed that parallel observation should be made in the present matter discharging the applicant.

6.1 Learned advocate Mr. Manghnani further stated that one incident appearing in the video, where the applicant is found with accused No.5, the clerk of the Court in the chamber of the Judicial Magistrate, should not be taken adverse since presence of the applicant as a stenographer in the chamber of the Judicial Magistrate is an indispensable fact, where there would be no ground of even assumption or presumption of any illegal activity, where the applicant as a stenographer is bound to preserve the secrecy of the matters directed by the Presiding Officer, and submitted that mere presence of the applicant, as found in the video could not draw any inference of any corrupt practice by the applicant as a stenographer of the Court.

6.2 Advocate Mr.Manghnani has also referred to the transcript of the conversation between the Judicial Officer and

the present applicant, to state that the contents of the learned Judge, as has been referred was actually addressed to the clerk Balkrishna, which could be verified from the later conversation, which become relevant on the record. Advocate Mr.Manghnani, thus stated that *prima facie* the conversation of the Judge with Balkrishna could not be made a ground for the applicant to face the trial.

6.3 Learned advocate Mr.Manghnani has relied upon the judgments in case of (i) Ashoo Surendranath Tewari Vs. Deputy Superintendent of Police, EOW, CBI & Anr., (2020) 2 SCC 636 (ii) Union of India Vs. Prafulla Kumar Samal And Anr., (1979) 3 SCC 4, (iii) Dilawar Balu Kurane Vs. State of Maharashtra, (2002) 2 SCC 135, (iv) State of Karnataka Vs. L.Muniswamy And Others, (1977) 2 SCC 699 and (v) Central Bureau of Investigation, Hyderabad Vs. K.Narayana Rao, (2012) 9 SCC 512, to substantiate his arguments stating that the result of the departmental proceedings should be considered, while assessing the case against the applicant during the criminal trial.

6.4 Learned advocate Mr.Manghnani has also made reference to the judgment of **Prafulla Kumar Samal And Anr.** (supra), to refer to the power of the Special Judge, while considering the discharge application and to refer to the meaning of 'public servant'.

7. Countering the arguments, learned advocate Mr. D.M. Devnani referred to one of the page of charge-sheet as 'H',

and submitted that therein the specific role of the present applicant has been referred to by making reference of the conversation, which had taken place between the Judge and the present applicant along with Shri Balkrishna. Mr. Devnani stated that the contents of this transcript *prima facie* refers to the connivance of the Judge and the staff members; the presence of the present applicant, at the relevant in the chamber of the Judge was not as a stenographer, but as a party involved in the crime.

7.1 Learned advocate Mr. Devnani has also referred to the conversation transcribed in the vernacular language to pinpoint that the intention of the accused while replying to the conversation itself shows his involvement and, thus submitted there cannot be detail observation of the contents of the conversation to go into the merits of the case when the trial is yet to begin. The real facts could be disclosed only after the evidence would be laid in terms of the allegation against the accused and the conversation dealt with.

7.2 Learned advocate Mr. Devnani further stated that the reliance of the acquittal in the departmental proceedings cannot be made a ground for discharge, where in the departmental proceedings the proof is on the basis of the preponderance of probability, while during the criminal trial the cases have to be proved beyond the reasonable doubt. The departmental inquiries are conducted as per the service rules, while the trial would be against all the accused jointly, hence, the evidence cannot be separated during the hearing of the

discharge proceedings, where the Judge has to weigh the evidence and form opinion only on the limited question of whether a *prima facie* is made out.

8. Learned APP Ms. Jyoti Bhatt has referred to judgment in the case of **State of Rajasthan Vs. Ashok Kumar Kashyap**, (2021) 11 SCC 191, to rely on the observation made by the Hon'ble Supreme Court of the scope under Section 227/239 of the Cr.P.C., submitting that the High Court while sitting in the revision jurisdiction should not enter into the merits of the case and should not weigh the material on record to decide whether the conviction of the accused would follow.

8.1 Learned APP Ms. Bhatt has also submitted that the Hon'ble Supreme Court has also referred to the limited scope of entering into the transcript of the conversation between the complainant and accused.

9. The main crux of the argument of learned advocate Mr.Manghnani is about exoneration in the departmental proceedings. In the case of Ashoo Surendranath Tewari (supra), wherein the observation with regard to the departmental proceedings and trial after considering the various judgments the Hon'ble Supreme Court has laid down the ratio in para 32 and its conclusion in para-39, which read as under:

"After referring to various judgments, this Court then culled out the ratio of those decisions in paragraph 38 as follows:-

“38. The ratio which can be culled out from these decisions can broadly be stated as follows:

- (i) Adjudication proceedings and criminal prosecution can be launched simultaneously;*
 - (ii) Decision in adjudication proceedings is not necessary before initiating criminal prosecution;*
 - (iii) Adjudication proceedings and criminal proceedings are independent in nature to each other;*
 - (iv) The finding against the person facing prosecution in the adjudication proceedings is not binding on the proceeding for criminal prosecution;*
 - (v) Adjudication proceedings by the Enforcement Directorate is not prosecution by a competent court of law to attract the provisions of Article 20(2) of the Constitution or Section 300 of the Code of Criminal Procedure;*
 - (vi) The finding in the adjudication proceedings in favour of the person facing trial for identical violation will depend upon the nature of finding. If the exoneration in adjudication proceedings is on technical ground and not on merit, prosecution may continue; and*
 - (vii) In case of exoneration, however, on merits where the allegation is found to be not sustainable at all and the person held innocent, criminal prosecution on the same set of facts and circumstances cannot be allowed to continue, the underlying principle being the higher standard of proof in criminal cases.”*
- It finally concluded:*

39. In our opinion, therefore, the yardstick would be to judge as to whether the allegation in the adjudication proceedings as well as the proceeding for prosecution is identical and the exoneration of the person concerned in the adjudication proceedings is on merits. In case it is found on merit that there is no contravention of the provisions of the Act in the adjudication proceedings, the trial of the person concerned shall be an abuse of the process of the Court.”

10. The standard of proof, which is necessary for dealing with the departmental proceedings and the criminal proceedings is different. The departmental proceeding would be against the single person, singling out the facts of the delinquent, while here, the proceeding would be judged in

connection with the act of the present applicant with the co-accused, where the charge is under the criminal proceedings. Adjudication proceedings in departmental inquiry and criminal proceedings are independent in nature and the finding in the departmental proceedings is not binding on the proceeding for criminal proceeding.

11. Another contention is made by learned advocate Mr.Manghnani on the transcript. In the case of **State of Rajasthan Vs. Ashok Kumar Kashyap** (supra), as referred by learned APP Ms. Bhatt, the Hon'ble Supreme Court has observed in para-11 and 12 as under:

“11. Having considered the reasoning given by the High Court and the grounds which are weighed with the High Court while discharging the accused, we are of the opinion that the High Court has exceeded in its jurisdiction in exercise of the revisional jurisdiction and has acted beyond the scope of Section 227/239 Cr.P.C. While discharging the accused, the High Court has gone into the merits of the case and has considered whether on the basis of the material on record, the accused is likely to be convicted or not. For the aforesaid, the High Court has considered in detail the transcript of the conversation between the complainant and the accused which exercise at this stage to consider the discharge application and/or framing of the charge is not permissible at all. As rightly observed and held by the learned Special Judge at the stage of framing of the charge, it has to be seen whether or not a prima facie case is made out and the defence of the accused is not to be considered. After considering the material on record including the transcript of the conversation between the complainant and the accused, the learned Special Judge having found that there is a prima facie case of the alleged offence under Section 7 of the PC Act, framed the charge against the accused for the said offence. The High Court materially erred in negating the exercise of considering the transcript in detail and in considering whether on the basis of the material on record the accused is likely to be convicted for the

offence under Section 7 of the PC Act or not. As observed hereinabove, the High Court was required to consider whether a prima facie case has been made out or not and whether the accused is required to be further tried or not. At the stage of framing of the charge and/or considering the discharge application, the mini trial is not permissible. At this stage, it is to be noted that even as per Section 7 the PC Act, even an attempt constitutes an offence. Therefore, the High Court has erred and/or exceeded in virtually holding a mini trial at the stage of discharge application.

12. We are not further entering into the merits of the case and/or merits of the transcript as the same is required to be considered at the time of trial. Defence on merits is not to be considered at the stage of framing of the charge and/or at the stage of discharge application."

12. The rest of the judgments relied upon by learned advocate Mr.Manghnani would be academic in purpose, which would not touch the facts of the case. In the referred judgment related to **Ashok Kumar Kashyap** (supra) entering in detail to consider the transcript for analysis for the probability of conviction has been considered as material error of High Court, wherein too the case was under provision of Corruption Act.

13. Having considered the principle laid down in the referred and relied upon judgment, this Court does not find any grounds or merits to enter into facts of the case in the revision jurisdiction, which is very limited. Hence, the present application is rejected.

(GITA GOPI,J)

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Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: PANKAJ KUMAR PRASAD(HC00967), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 30/03/2026 19:05:47