

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL REVISION APPLICATION (AGAINST CONVICTION) NO. 96
of 2021****With
CRIMINAL MISC.APPLICATION (DIRECTION) NO. 3 of 2026
In R/CRIMINAL REVISION APPLICATION NO. 96 of 2021**

=====
HUSSAIN OSHMAN LUCHANI

Versus

STATE OF GUJARAT & ANR.
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Appearance:

VISHAL K ANANDJIWALA(7798) for the Applicant(s) No. 1

MR ROHAN RAVAL, APP for the Respondent(s) No. 1

RULE SERVED for the Respondent(s) No. 2
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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**Date : 23/03/2026****ORAL ORDER**

1. The present Revision Application is filed by the applicant seeking the following reliefs:

“Your Lordship may be pleased to issue an appropriate writ, order or direction quashing and setting aside the conviction order dated 28.02.2013 passed by the learned 4th Additional Chief Judicial Magistrate, Porbandar below Exh.55 in Criminal Case no. 2230 of 2003; and Your Lordships may be pleased to quash and set aside the order dated 28.01.2021 passed by the learned Sessions Court, Porbandar in Criminal Appeal no. 06 of 2013 below Exh.47 qua the petitioner - original accused no.1;”

2. The brief facts of the case are that the applicant was married to Sugaraben Hussainbhai about 12 years prior in accordance with Muslim rites and rituals, and she resided with her in-laws for the last three years without any prior dispute. On 02.02.2003, following a quarrel, she left the matrimonial home and lodged a complaint at Dwarka Police Station, which was

later transferred to Madhavpur Police Station and registered as C.R. No. I-8/2003 for offences under Sections 498A, 324, 323, 506(2) and 114 of the Indian Penal Code, 1860 and Section 135 of the Gujarat Police Act. After investigation, a charge-sheet was filed and Criminal Case No. 2230 of 2003 was instituted before the learned JMFC, Porbandar. By judgment dated 28.02.2013, the learned 4th Additional Chief Judicial Magistrate, Porbandar convicted the petitioner and other accused under Sections 498A, 323, 324 and 114 of the IPC, while acquitting them of the offence under Section 506(2) IPC and Section 135 of the Gujarat Police Act. The petitioner and other accused preferred Criminal Appeal No. 06 of 2013 before the Sessions Court, Porbandar, during which original accused No.2 (father of the petitioner) expired. By order dated 28.01.2021, the learned Sessions Judge partly allowed the appeal, modifying the conviction and sentence, and ultimately convicted the petitioner under Section 324 IPC, sentencing him to 6 months' simple imprisonment with fine of Rs.5,000/-, in default one month's simple imprisonment, along with compensation of Rs.10,000/- under Section 357(B) of the Code of Criminal Procedure, 1973.

3. Heard learned advocates for the respective parties.

4. Learned advocate for the applicant submits that the dispute arises out of a matrimonial issue. It is further submitted that the applicant was initially enlarged on bail and had remained on bail; however, subsequently, due to non-prosecution, the matter came to be dismissed for default on account of non-removal of office objections, and presently, the applicant is in jail. Therefore, the learned advocate for the

applicant has requested to allow the present application and has prayed that the Court may take a lenient view, considering that the applicant has already undergone a sentence of more than three months.

5. Learned APP has opposed the present application, submitting that concurrent findings have been recorded by the courts below after considering the documents on record, and that no case is made out to overturn such findings.

6. Heard learned advocates for the respective parties and perused the material on record. It appears that the applicant has been convicted under Sections 323 and 324 of the IPC and sentenced to six months' simple imprisonment, along with a fine of Rs.5,000/- and compensation of Rs.10,000/- to be paid to the complainant under Section 357(b) of the Code of Criminal Procedure.

7. It is a settled position of law that in a revision application, the jurisdiction of this Court is limited. Unless there is any glaring error, non-compliance with the provisions of law, or the finding is perverse or arbitrary, interference is not warranted. Re-appreciation of evidence is also not permissible in revisional jurisdiction. Upon perusal of the evidence on record, it appears that the findings and reasons assigned by the learned trial Court as well as the learned Appellate Court are just and proper and do not call for interference, particularly in light of the decision of the Hon'ble Apex Court in ***Amit Kapoor v. Ramesh Chander*, (2012) 9 SCC 460.**

8. However, considering that the applicant has no past antecedents, that the incident pertains to the year 2003, and that the applicant has already undergone a sentence of about three months, this Court is inclined to modify the sentence.

9. Accordingly, while maintaining the conviction, the sentence imposed by the learned Sessions Court is reduced to the period already undergone, i.e., three months, subject to payment of fine of Rs.5,000/- and compensation of Rs.10,000/- to the complainant.

10. In view of the above, the Revision Application is partly allowed to the aforesaid extent. If the presence of the applicant is not required in connection with any other offence, the concerned authority is directed to release the applicant forthwith, subject to payment of the aforesaid fine and compensation.

11. Since the main matter is disposed of. The present application does not survive. Hence, the same is disposed of as not survived.

ALI

(HASMUKH D. SUTHAR,J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: ISTAYAK ALI(HC01093), PRIVATE SECRETARY, at High Court of Gujarat on 23/03/2026 18:33:18