

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL REVISION APPLICATION (AGAINST ORDER PASSED BY
SUBORDINATE COURT) NO. 384 of 2015**

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SAMJU RUDA BHIMANI & ORS.
Versus
STATE OF GUJARAT

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Appearance:
MS BHAVIKA H KOTTECHA(2942) for the Applicant(s) No. 1,2,3,4,5,6
MS MONALI BHATT, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 07/05/2026

ORDER

1. It is submitted by learned APP that during the pendency of present application, accused no.4-applicant no.4 has expired. Therefore, the proceedings qua accused no.4 stands abated.
2. By way of present revision application under Sections 397 read with 401 of the Code of Criminal Procedure, 1973, the applicants - accused have prayed for quashing and setting aside impugned orders passed by learned Judicial Magistrate, First Class & 8th Additional Senior Civil Court, Junagadh in Criminal Case NO.740 of 2005 dated 15.4.2008 and learned 3rd Additional Sessions Court, Junagadh, in Criminal Appeal No.24 of 2008 dated 13.7.2015.
3. Heard learned Advocate for the applicants and learned APP Ms.Monali Bhatt for the respondent - State.

4. At the outset, the applicants – accused are convicted for the offences punishable under Sections 323, 324 and 114 of IPC and there are concurrent findings of both the Courts below. The applicants have committed the first offence in the year 2005. At present they are doing work and run their livelihood with their families. Hence, the learned Advocate for the applicants has also prayed to extend the benefit of probation to the applicants. This Court vide order dated 07.04.2026, has called for report of Probation Officer, Junagadh, in compliance of which the Chief Probation Officer, Junagadh, has submitted the report with regard to 4 accused, and for other two accused report is submitted by Chief Probation Officer, Surat, which are taken on record. As per the said reports, the conduct of present applicants is good and Probation Officer has also recommended to extend the benefit of probation to the applicants. Furthermore, 20 years have passed since the date of the incident and during these period the applicants did not indulge in any further crime and report of Probation Officer also suggest good conduct of the applicants.

5. Now while exercising jurisdiction under Section 401 of the Code is discretionary and it is required to be used only in exceptional cases where glaring defect in the procedure and manifest error of law or there has been miscarriage of justice. Here no any such error is pointed out or no perversity is found from the reasons assigned by the learned Courts below. Hence, the learned Courts below have not committed any error in coming to the conclusion. Even in revisional jurisdiction the Court has to be more careful in re-appreciating the fact or

evidence as revisional jurisdiction itself does not provide reappreciation of evidence and considering the limited jurisdiction the Court cannot act as Appellate Court. Hence, no case is made out for interference with the impugned findings in light of scope of the scope of revision laid down by the Hon'ble Apex Court in ***Amit Kapoor Vs. Ramesh Chander***, reported in **2012 (9) SCC 460**.

6. However, one of prime consideration under the penology is reformatory approach. The Court has to also consider the possibility of rehabilitation and reformation of offender and therefore, the discretion given to the Court while awarding the sentence under Section 360(1)(iii) of the Code of Criminal Procedure and to consider the provision of Probation of Offenders Act. Considering the aforesaid fact, in order to permit rehabilitation of offender, without finding their communal conscience and to secure the societal interest and justice, Court should prefer the reformatory approach instead of inflicting higher or harsher punishment.

7. In view of above, the applicants - accused is directed to be released on probation of good conduct under Section 4 of the Probation of Offenders Act, upon execution of probation bond in sum of Rs.20,000/-, with one surety of like amount for a period of one (1) year.

8. It is hereby further directed that the applicants - accused shall receive the sentence as and when called upon till the said period and the applicants shall maintain peace during above mentioned period of one (1) year. The above mentioned bond

under Section 4 of the Probation of Offenders Act, be submitted before the learned trial Court within 15 days of passing of this judgment.

9. Accordingly, present revision application is disposed of. Record and proceedings, if any, be sent back to the concerned Court forthwith.

R.S. MALEK

(HASMUKH D. SUTHAR,J)