

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL REVISION APPLICATION (AGAINST ORDER PASSED BY
SUBORDINATE COURT) NO. 382 of 2015**

**FOR APPROVAL AND SIGNATURE:
HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

Approved for Reporting	Yes	No
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THAKOR ARJANJI SARDARJI(Abated) & ORS.

Versus

STATE OF GUJARAT

Appearance:

DECEASED LITIGANT for the Applicant(s) No. 1

MR JIGAR G GADHAVI(5613) for the Applicant(s) No. 2,3,4

MR JIGNESHKUMAR P PANDAV(8297) for the Respondent(s) No. 1

MS SHRUTI PATHAK, APP for the Respondent(s) No. 1

CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 09/03/2026

JUDGMENT

[1.0] By way of present revision application under Section 397 of the Code of Criminal Procedure, 1973 (for short "CrPC"), the applicants have requested to quash and set aside the impugned judgment and order dated 02.07.2015 passed by the learned 3rd Additional Sessions Judge, Mahesana, at Visnagar in Criminal Appeal No.19/2013 and to confirm the judgment and order dated 10.05.2013 passed by the learned Judicial Magistrate, First Class in Criminal Case No.408/2001.

[2.0] Heard the learned advocate for the applicants, learned advocate for respondent No.1 and learned APP for respondent No.1.

[3.0] Perusing the record, it appears that during the pendency of present criminal revision application, parties have arrived at settlement and as the appellate Court has been pleased to convict the applicants for the offence punishable under Sections 323, 324, 325 and 326 of the Indian Penal Code, 1860 (for short "IPC") and ordered to undergo simple imprisonment for two years. The coordinate Bench in its order dated 07.11.2025 has observed that parties have arrived at amicable settlement and affidavit of injured witnesses in this regard is placed on record and even the parties had remained present before the coordinate Bench and had consented for quashing and setting aside the conviction of present applicants recorded by the learned Sessions Judge however, the matter requires consideration *qua* offence under Section 326 read with Section 114 of the IPC considering the provision of section 320 of the IPC.

[4.0] Perusing the record, it appears that the learned trial Court has been pleased to acquit the accused persons on 10.05.2013 giving the benefit of doubt. In order to prove the case before the learned trial Court, the complainant was examined at Exh.68, witness Thakor Ambaben Chanduji at Exh.70 and both these witnesses were injured eye-witnesses, panch witness Nos.3 and 4 i.e. Thakor Jodhaji Ramanji and Thakor Prahladji Laxmanji examined respectively at Exhs.72 and 74 have turned hostile and witness Nos.5 and 6 i.e. Thakor Jivanji Karshanji and Thakor Balwanji Pratapji are examined respectively at Exhs.81 and 87, Dr. Mansangbhai Laljibhai Chaudhary is examined at Exh.91 and witness No.8 Parmar Maganbhai Mulabhai is examined at Exh.96. The complaint is produced at Exh.69, panchnama at Exh.73 and injury certificates are produced respectively at Exhs.92 and 94. Perusing the said evidence, learned trial Court come to the conclusion that no specific evidence is produced on record and there is

contradiction in the evidence and therefore, the learned trial Court extended the benefit of doubt to the accused persons but in the appeal, the learned Sessions Judge convicted the accused persons for the offence punishable under Sections 323, 324, 325, 326 read with Section 114 of the IPC based on the evidence of two injured eye-witnesses, as the learned trial Court come to the conclusion that accused persons were under the influence of alcohol, they were unable to inflict any indiscriminate blow or any injury to the injured witnesses but learned appellate Court come to the conclusion that axe was used by the accused No.1 – Thakor Arjanji Sardarji (now deceased) and he made an assault and said fact is also not in dispute. The injury falls in the purview of section 320 of the IPC and conviction was recorded but during the pendency of the present revision application, accused No.1 – Thakor Arjanji Sardarji expired and therefore, the case came to be abated *qua* accused No.1. However, as the offences under Sections 323, 324, 325 and 326 read with Section 114 of the IPC are already settled between the parties and coordinate Bench has recorded the settlement *qua* offence under Sections 323, 324 and 325 of the IPC only, this Court is of considered view that the allegation *qua* offence under Section 326 of the IPC were only against accused No.1, who is now no more, considering the compromise between the parties and the fact that the offence is of the year 2001 and initially on 10.05.2013, accused persons were given benefit of doubt and thereafter, the appellate Court has been pleased to convict on 02.07.2015 and considering the long drawn battle between the parties and settlement having been arrived at after 26 years and as parties and victims have suffered a lot for such a long time, it would be appropriate and better to restore the relationship between the parties based on compromise and this Court deems it fit without discussing further on merits, particularly considering the allegation of

assault against accused No.1, who is now no more, the injury which falls under the grievous hurt defined under Section 320 of the IPC, in view of the decision of the Hon'ble Supreme Court in the case of **H.N. Pandakumar vs. State of Karnataka** reported in **2025 INSC 37**, present revision application deserves consideration.

[5.0] In wake of aforesaid conspectus, present revision application is allowed. Impugned judgment and order dated 02.07.2015 passed by the learned 3rd Additional Sessions Judge, Mahesana, at Visnagar in Criminal Appeal No.19/2013 is hereby quashed and set aside and the judgment and order dated 10.05.2013 passed by the learned Judicial Magistrate, First Class in Criminal Case No.408/2001 is hereby confirmed. Present revision application is disposed of in aforesaid terms.

Sd/-
(HASMUKH D. SUTHAR, J.)

Ajay