

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL REVISION APPLICATION NO. 321 of 2010

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

=====

Approved for Reporting	Yes	No

=====

SANJAYKUMAR MAHASUKHLAL (DATRANIA)
 Versus
 STATE OF GUJARAT & ANR.

=====

Appearance:

BAILABLE WARRANT NOT RECEIVED BACK for the Applicant(s) No. 1
 MR ASHISH M DAGLI(2203) for the Applicant(s) No. 1
 MR SP HASURKAR(345) for the Respondent(s) No. 2
 MR ROHAN RAVAL, APP for the Respondent(s) No. 1

=====

CORAM: HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 04/05/2026

JUDGMENT

- 1) By way of present revision application under Sections 397 and 401 of the Code of Criminal Procedure, the applicants have sought following relief:-

"(B) This Hon'ble Court may be pleased to allow this Criminal Revision Application by quashing and setting aside the Judgment and order passed by learned Spl. Electricity Judge, Baroda, in Spl. Electricity Case No.50 of 2006 decided on 17.4.2010."

- 2) *Prima facie* it appears that the applicant was working as *Vidhyut Sahayak*, at that time in connection of the alleged act committed by the applicant one FIR being I-C.R.No.174 of 2006, for the offences under Sections 409 and 427 of the Indian Penal Code and under Section 140 of the Electricity Act, with MGVCL Co. Ltd., Police Station, Vadodara,
- 3) Having heard the learned Advocate Mr. A. M. Dagli, for the applicant and learned Advocate Mr. H. P. Hasurkar, for the respondent no.2 - GETCO (PGVCL) and going through the record it *prima facie* appears that after completion of investigation charge-sheet is filed which culminated into Special Electricity Case No.50 of 2006, which is pending before the learned Special Electricity Court, Vadodara and a discharge application at Exhibit 5 came to be filed under Section 227 of the Code of Criminal Procedure. Perusing the evidence it appears that *prima facie* no entrustment of property or no any *prima facie* evidence which suggest involvement or would get attract provision of Section 406 of the IPC as defined under Section 405 of the IPC i.e. offence of criminal breach of trust and in absence of any material *mens rea* or dishonest intention qua offence under the IPC either under Section 409 or 427 of the IPC, this Court is of the view that no offence is made out under Sections 409 and 427 of the IPC.

- 4) In view of the above, no offence is made out under the Sections 409 and 427 of the IPC against the applicant and he is required to be discharged only for the charges levelled under Sections 409 and 427 of the IPC.
- 5) It is clarified that so far the applicant was employed with the MGVCL and alleged act covers under Section 140 of the Electricity Act, the trial Court may proceed with the Electricity Act. Even if any evidence is reveals or lead by the prosecution it is kept open for the learned trial Court to take appropriate action after giving opportunity to both the parties in accordance with law.
- 6) Accordingly, the present revision application is disposed of being **partly allowed**. The order dated 17.04.2010 below Exhibit 13, in Special Electricity Case No.50 of 2006, passed by the Special Electricity Judge, Vadodara, is quashed and set aside up to above extent and the discharge application at Exhibit 13, under Section 227 of the Code, filed by the applicant is hereby partly allowed and the applicant is discharged from the chrages levelled under Sections 409 and 427 of the Indian Penal Code only.
- 7) The learned trial Court is directed to expedite the proceedings of the Special Electricity Case No.50 of 2006.

- 8) Interim relief granted earlier stands vacated. Record and proceedings, if any, be sent back to the concerned Court forthwith.

ANKIT JANSARI

(HASMUKH D. SUTHAR,J)