IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CIVIL REVISION APPLICATION NO. 149 of 2025

With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2025
In R/CIVIL REVISION APPLICATION NO. 149 of 2025

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JASUBHAI LILABHAI PATEL
Versus
KAMLESHBHAI JASUBHAI PATEL & ANR.

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Appearance:
MR.SUBHASH G BAROT(2619) for the petitioner(s) No. 1
MR MANISH S SHAH(5859) for the Opponent(s) No. 1,2

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CORAM:**HONOURABLE MR. JUSTICE J. C. DOSHI**

Date : 18/11/2025

ORAL ORDER

1. By way of this petition under section 115 of the Code of Civil Procedure, 1908 (in short "the Code"), the petitioner prays to quash and set aside order dated 9.12.2024 passed by the learned Principal Civil Judge & JMFC at Vadali, Sabarkantha in Regular Civil Suit No.2 of 2024 below Exh.9 and further be pleased to allow application filed by the petitioner before the learned trial Court under the provisions of Order 7 Rule 11 of the Code and to reject the plaint.

2. Brief facts of the case are as under:-

2.1 The petitioner is defendant, and the respondents are the plaintiffs in the suit, they have filed suit against petitioner for compensation for defamation.

2.2 Present petitioner filed complaint alleged to have been bogus against the plaintiffs u/s 406, 420, 467, 468, 504, 506(2), 114 of the IPC being Criminal Case No.560 of 2018

2.3 The trial Court, after recording evidence acquitted the plaintiffs. Having found acquittal in Criminal Case, the plaintiffs pleaded that malicious prosecution has been launched against them by the petitioner defendant. Thus, the plaintiffs filed suit for compensation of alleged defamation and launch of malicious prosecution.

2.4 The order of acquittal was challenged by the present petitioner before this court by way of filing Criminal Appeal and an application for leave to appeal.

2.5 The application filed by the petitioner for leave to appeal was allowed and appeal against the order of acquittal of the plaintiffs is admitted.

2.6 The suit has been filed on the ground of malicious prosecution on alleged defamation of the plaintiffs.

2.7 The petitioner submitted an application under the provisions of Order 7 Rule 11 on the grounds that no real cause of action has arisen as well as the suit is time barred.

2.8 Said application filed by the petitioner is dismissed by the learned trial court.

2.9 Hence, present petition.

3. Parties are referred to as per their original status before the lower Court.

4. Heard learned advocate Mr. SG Barot for the petitioner. Vide order dated 1.4.2025, learned advocate Mr. Manish Shah had instruction to appear for the respondents. However, today, when the matter is called out, he has chosen not to remain present.

5. Learned advocate for the petitioner would assail the impugned order and submit that the learned trial Court has committed serious error in rejecting the application filed under Order 7 Rule 11 of the Code. He would further submit that the suit is hopelessly time barred, as statement made in the plaint is hit by law of limitation and yet the learned trial Court erroneously declined to hold that the suit is not barred by law of limitation. He would further submit that according to the plaint, the respondents – plaintiffs filed suit for damages of defamation. The defamation according to the plaintiffs took place when Criminal Case No.560 of 2018 for the offences punishable u/s 406, 420, 467, 468, 504, 506(2), 114 of the IPC was falsely registered against the plaintiffs. He would further submit that the process in the criminal case was issued by the JMFC, Vadali and subsequently, framed the charges on 16.10.2019 and therefore, if the charges are framed false against the plaintiffs, the cause of action to file the suit for damages commenced from 16.10.2019. However, the suit was filed subsequent thereto beyond the period of

limitation of three years, in the year 2024, itself is a suit filed beyond limitation. He would further submit that therefore, present petition deserves consideration. He would further submit that the suit was lacking real and genuine cause of action as well as suit was barred by law of limitation. It is further argued that all these issues have not been addressed by the learned trial Court in its proper perspective. He would further submit that the suit for defamation itself is not maintainable as acquittal order has been challenged before the learned appellate Court and the leave to appeal has been granted by the Division Bench of this Court on 28.1.2024 permitted the petitioner to file acquittal appeal against Criminal Case No.560 of 2018.

5.1 Thus, it is submitted that in absence of real cause of action and the plaint on its face since is time barred, the learned trial Court ought to have rejected the plaint in exercise of jurisdiction under O 7 R 11(d) of the Code.

5.2 Upon above submissions, learned advocate Mr. Barot requests to allow this petition.

6. The revisional jurisdiction of the High Court u/s 115 of the Code has been elaborately discussed by the Hon'ble Apex Court in case of **Shankar Ramchandra Abhyankar v. Krishnaji Dattatreya Bapat, 1969 (2) SCC 74**, wherein, it has been observed as under:-

> *"Now when the aid of the High Court is invoked on the revisional side it is done because it is a superior court and it can interfere for the purpose of rectifying*

> *the error of the court below. Section 115 of the Code of Civil Procedure circumscribes the limits of that jurisdiction but the jurisdiction which is being exercised is a part of the general appellate jurisdiction of the High Court as a superior court. It is only one of the modes of exercising power conferred by the statute; basically and fundamentally it is the appellate jurisdiction of the High Court which is being invoked and exercised in a wider and larger sense. We do not, therefore, consider that the principle of merger of orders of inferior courts in those of superior Courts would be affected or would become inapplicable by making a distinction between a petition for revision and an appeal. (Emphasis supplied).”*

7. In **Yunus Ali (Dead) Through His L.Rs. Versus Khursheed Akram, 2008 AIR (SC) 2607** in regards to power u/s 115 of the Code, the Hon’ble Apex Court observed thus:-

> *“It is well-settled position in law that u/s. 115 of the Code of Civil Procedure the High Court cannot re-appreciate the evidence and cannot set aside the concurrent findings of the Courts below by taking a different view of the evidence. The High Court is empowered only to interfere with the findings of fact if the findings are perverse or there has been a non-appreciation or non-consideration of the material evidence on record by the courts below. Simply because another view of the evidence may be taken is no ground by the High Court to interfere in its revisional jurisdiction.”*

8. Thus, the revisional power vested with the High Court is to examine that whether the learned Tribunal (a) have exercised jurisdiction not vested in it by law, or (b) to have failed to exercise a jurisdiction so vested, or (c) to have acted

in the exercise of its jurisdiction illegally or with material irregularity. Essentially, the revisional jurisdiction castes responsibility on the higher forum to keep the Court below within limitation of law. The High Court is empowered only to interfere with the findings of fact if the findings are perverse or there has been a non-appreciation or non-consideration of the material evidence on record by the courts below. Simply because another view of the evidence may be taken is no ground by the High Court to interfere in its revisional jurisdiction. [See: **Masjid Kacha Tank, Nahan Versus Tuffail Mohammed, AIR 1999 SC 455**].

9. Considering the scope of the revisional jurisdiction, if we examined the issues raised in this petition by the petitioner, mainly, it is contended that the plaint lacks real cause of action; averments made under the title of cause of action is illusive and in absence of real and actual cause of action, the plaintiffs' suit for recovery of damages of Rs.10 lakh towards damage for the defamation was totally illusive. It is apposite to note that the cause of action is a bundle of plaint, which are required to be pleaded and proved for the purpose of obtaining relief claimed in the suit. In order to see that whether cause of action is pleaded, the Court has to look to the averments in the plaint in their entirety to see whether plaint discloses a cause of action. Elaborate enquiry into doubtful or complicated question of fact or law is unnecessary.

10. Apt to note that Plaint is not liable to be rejected on the ground that the facts disclosed will not prove a case. At this

juncture, one more aspect needed consideration that the Court has to take into account documents filed with the plaint in view of Order 7 Rule 14. [See: Liverpool and London SP v M.V. Sea (2004)9 SCC 512].

11. **In Sopan Sukhdeo vs. Asst. Charity Commissioner, (2004) 3 SCC 137,** the Hon'ble Apex Court held as under:-

> *"Order 7 rule 11 vests an independent right to the defendant to challenge the maintainability of the suit. Trial court can entertain the objection at any stage of the suit and even before conclusion of trial. Filing of a written statement is not a condition precedent. As a matter of fact court will not look into the written statement either. Averments in the plaint are germane for disposal of the application. Court is bound to reject the plaint if it attracts any of the infirmities provided in Order 7 rule 11."*

12. Keeping in mind the aforesaid proposition of law, if we go through the pleadings of the plaint, it appears that the plaintiffs in para 2 of the plaint, pleaded that false and frivolous criminal case was registered by the petitioner for the offences punishable u/s 406, 420, 467, 468, 504, 506(2), 114 of the IPC against them. On 12.9.2023, the learned criminal Court after permitting both the parties to lead evidence and hearing them, was pleased to acquit the plaintiffs. The plaintiffs claimed that they have been falsely implicated in the criminal case and the implication of the plaintiffs was with a view to downgrade their prestige in the society. Therefore, the plaintiffs claimed that by filing false criminal case, the petitioner has launched malicious prosecution against them. A clear cause of action is pleaded by the plaintiffs. There is no

cavil that the defendant had filed Criminal Case against clear acquittal of the plaintiffs recorded by the learned JMFC. In that circumstances, suit for compensation for malicious prosecution is maintainable. Whether the plaintiffs prove malicious prosecution or not, is case to be decided during trial, but it cannot be said that the plaintiffs have no right, sue of cause of action to file suit does not arise.

13. The plaintiffs were acquitted on 12.9.2023 and on 14.2.224, the plaintiffs have filed suit for compensation for malicious prosecution. The limitation to file the suit for compensation for malicious prosecution is governed by Article 74 of the Limitation Act, which reads as under:-

Description of suits	**Period of limitation**	**Time from which period begins to run**
For compensation for a malicious prosecution	One year	When the plaintiff is acquitted or the prosecution is otherwise terminated.

14. The time rom which period begin to run for filing the suit regarding compensation for malicious prosecution is when the plaintiff is acquitted or the prosecution is otherwise terminated, the period of limitation is one year therefrom. In the present case, the suit was filed within one year from the date of acquittal in Criminal Case.

15. In **Saleem Bhai v State of Maharashtra (2003)1 SCC 557**, in reference to O 7 R 11 of the Code, the Hon’ble Apex

Court held as under:-

> *"9...the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint. The trial court at any stage of the suit-before registering can exercise the power. the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of deciding an application under Clauses (a) and (d) of rule 11 of Order 7 CPC, the averments in the plaint are germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at the stage.."*

16. In **Mayar (HK) Ltd. v Owners & Parties, Vessel MV Fortune (2006)3 SCC 100**, the Hon'ble Apex Court held that averments in the plaint in its entirety taking them to be correct have to be considered to see whether plaint discloses a cause of action. It is substance and not the form has to be looked into. Intention of the party has to be gathered primarily from the tenor and terms of the pleading as a whole. No pedantic approach should be adopted to defeat justice on hair-splitting technicalities. Piecemeal reading of plaint should not be made. Plaint has to be read as a whole. In the aforesaid circumstances, according to this Court, the suit by the plaintiffs to recover the compensation or alleged malicious prosecution was filed within one year from the date of the cause of action arose.

17. At the cost of repetition, it can be said that cause of action arose on 12.9.2023. No sooner the plaintiffs were acquitted from the Criminal Case, the suit was filed on 14.2.2024. Thus, the suit was filed within the time limit.

It is noticeable, despite clear right to sue exist and statement made in the plaint, reflects that suit is filed within the time limit, according to this Court, the defendant filed application before the learned trial Court and revision before this Court is misuse of legal procedure.

18. In the aforesaid circumstances, what could be noticeable that filing of application under O 7 R 11 of the Code is a part of growing tendency to intercept and derail the suit at initial stage under O 7 R 11 of the Code and to carry out them into revision without having any substance. It is to be said that this is an attempt by the petitioner to abuse the process and such attempt is seriously eroded the sanctity of the judicial process. The Court across the country is flooded with the litigation. Frivolous and groundless filings constitute a serious menace to the administration of justice. They consume time and clog of the infrastructure. Productive resources which should be deployed in the handling of genuine causes are dissipated in attending to cases filed only to benefit from delay, by prolonging dead issues and pursuing worthless causes. This is complete fraudulent attempt on the part of the defendant to derail the proceedings of the suit.

19. After referring to the judgment of the Hon’ble Apex Court, the Division Bench of this Court in case of **Parvin Cotgin Pvt Ltd. Versus Axis Bank Ltd., 2020 (4) GLH 145**, imposed cost of Rs.10 lakh for filing frivolous litigation. Para 91 reads as under:-

> *"**91.** The facts and circumstances surrounding the present case, the contentions of the parties and the law on the issue, as discussed by us in the paragraphs hereinabove, indicate the impetuous attitude of the appellants before us. As we have stated before, this is a typical instance of how the judicial system is getting clogged with frivolous litigation. The Hon'ble Supreme Court has held in catena of cases that such frivolous and vexatious litigation must be discouraged by imposing exemplary costs or by adopting similar novel methods. The facts as they stand before us, leave us with no option, but to impose costs to the tune of Rs.10,00,000/- (Rupees Ten Lakhs only) on each of the appellants. We hope that the imposition of costs shall have a deterrent effect on all such litigants who have approached or attempt to approach the forums with such frivolous litigation."*

20. In ***Dnyandeo Sabji Naik and Another v. Pradnya Prakash Khadekar and Others, (2017) 5 SCC 496***, the Hon'ble Apex Court has, in its aureate enunciation, held thus:-

> "13. This Court must view with disfavour any attempt by a litigant to abuse the process. The sanctity of the judicial process will be seriously eroded if such attempts are not dealt with firmly. A litigant who takes liberties with the truth or with the procedures of the Court should be left in no doubt about the consequences to follow. Others should not venture along the same path in the hope or on a misplaced expectation of judicial leniency. Exemplary costs are inevitable, and even necessary, in order to ensure that in litigation, as in the law which is practise in our country, there is no premium on the truth.
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> 14. Courts across the legal system-this Court not being an exception-are choked with litigation. Frivolous and groundless filings constitute a serious menace to the administration of justice. They consume time and clog the infrastructure.

Productive resources which should be deployed in the handling of genuine causes are dissipated in attending to cases filed only to benefit from delay, by prolonging dead issues and pursuing worthless causes. No litigant can have a vested interest in delay. Unfortunately, as the present case exemplifies, the process of dispensing justice is misused by the unscrupulous to the detriment of the legitimate. The present case is an illustration of how a simple issue has occupied the time of the courts and of how successive applications have been filed to prolong the inevitable. The person in whose favour the balance of justice lies has in the process been left in the lurch by repeated attempts to revive a stale issue. This tendency can be curbed only if courts across the system adopt an institutional approach which penalises such behaviour. Liberal access to justice does not mean access to chaos and indiscipline. A strong message must be conveyed that courts of justice will not be allowed to be disrupted by litigative strategies designed to profit from the delays of the law. Unless remedial action is taken by all courts here and now our society will breed a legal culture based on evasion instead of abidance. It is the duty of every court to firmly deal with such situations. The imposition of exemplary costs is a necessary instrument which has to be deployed to weed out, as wehras to prevent the filing of frivolous cases. It is only then that the courts can set apart time to resolve genuine causes and answer the concerns of those who are in need of justice. Imposition of real time costs is also necessary to ensure that access to courts is available to citizens with genuine grievances. Otherwise, the doors would be shut to legitimate causes simply by the weight of undeserving cases which flood the system. Such a situation cannot be allowed to come to pass. Hence it is not merely a matter of discretion but a duty and obligation cast upon all courts to ensure that the legal system is not exploited by those who use the forms of the law to defeat or delay justice. We commend all courts to deal with frivolous filings in

the same manner.”

21. Recently, the Hon’ble Apex Court in case of **Haryana Urban Development Authority And Another Versus Jagdeep Singh, 2023 (14) SCC 122**, referring to the judgment in case of Dynandeo Sabaji Naik (supra), was pleased to award cost of Rs.50,000/- for filing frivolous litigation.

22. As observed herein above, the petition is filed to only to derail the proceedings of the civil suit on the whims and caprices of the defendant, which is clear abuse of process of law. Filing of such frivolous litigation is to be quantified with the cost.

23. For the foregoing reasons, the petition fails and stands dismissed with cost quantified at Rs.7500/- to be deposited before the DLSA, Sabarkantha @ Himmatnagar within two weeks from the date of receipt of this order, failing which, the Collector, Sabarkantha is directed to recover the amount of cost as arrears of revenue, upon receipt of request letter from the DLSA, Sabarkantha @ Himmatnagar. Notice discharged.

24. Consequently, CA does not survive and stands disposed of accordingly.

(J. C. DOSHI,J)

SHEKHAR P. BARVE

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: SHEKHAR PRAFULBHAI BARVE(HC00200), Principal Pvt. Secretary, at High Court of Gujarat on 21/11/2025 14:49:10