

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL REVISION APPLICATION NO. 762 of 2022****GANGABEN PARBATBHAI VAZA****Versus****STATE OF GUJARAT**

Appearance:

MRS NASRIN N SHAIKH(2451) for the Applicant(s) No. 1
for the Respondent(s) No. 2,3Ms. Monali Bhatt, Addl. PUBLIC PROSECUTOR for the Respondent(s)
No. 1**CORAM:HONOURABLE MR. JUSTICE SAMIR J. DAVE****Date : 03/08/2022****ORAL ORDER**

1.0. Heard Ms. Nasrin Shaikh, learned advocate for the applicant and Ms. Monali Bhatt, learned Additional Public Prosecutor for the respondent State.

2.0. By way of this application under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973, the petitioner has prayed for the following reliefs:

“A. Your Lordships may be pleased to quash and set aside the impugned order passed by the learned Judge, Special Court (Atrocity) and Additional District and Sessions Judge, Kodinar below Exh.1 in Criminal Inquiry No.1 of 2019 dated 12.01.2022:”

B. Pending admission, hearing and final disposal of this Revision Application, Your Lordships may be pleased to stay the execution, operation and

implementation of the impugned order passed by the learned Judge, Special Court (Atrocity) and Additional District and Sessions Judge, Kodinar below Exh.1 in Criminal Inquiry No.1 of 2019 dated 12.01.2022:”

3.0. Brief facts of the case are as under

3.1. It is the case of the petitioner that at the relevant time petitioner was Sarpanch of Navgan Gram Panchayat, Taluka: Kodinar Dist. Gir Somnath. It is further the case of the petitioner that the petitioner made representations on 17.5.2017 and 10.2.2019 for installing transformer for fault in light due to over loading , low power to the respondent authority. That on 17.5.2017 and 10.02.2019 the petitioner made another representations to the Social Welfare Department, Gandhinagar as well as State and National Scheduled Caste Commission. It the case of the petitioner that on 4.12.2019 the officers from the Paschim Gujarat Vij Company Limited visited the house of the petitioner for checking of the electricity meter and at that time they used the abusive and filthy language and also insulted the petitioner about her caste. It is the further case of the petitioner that due to ailment of the petitioner, she had not gone to the police station but her husband and witnesses gone to the

Kodinar Police Station, however accused are influential person, complaint of the petitioner was not registered and on the contrary complaint of accused no.1 was lodged against petitioner and other three persons. That in view of the above, the petitioner filed complaint before the Court, which came to be registered as Inquiry Case No.1 of 2019. That the learned Court below after perusal of the complaint vide order dated 12.12.2019 called for the report of the Deputy Commissioner of Police, SC St Cell, Veraval and report to be submitted before the Court. That the learned Court below also directed the complainant to remain present before the Court for recording her statement on next date. That upon receipt of the report from the concerned authority and recording the statement of the complainant and other witnesses, the learned trial Court rejected the complaint of the petitioner vide its order dated 12.1.2022.

3.2. Being aggrieved and dissatisfied with the order dated 12.1.2022 passed by the learned Court below, the petitioner preferred present Criminal Revision Application before this Court.

4.0. Ms.Nasrin Shaikh, learned advocate for the petitioner has

submitted that learned trial Court has committed an error while passing the impugned order. Ms. Shaikh further contended that the learned trial Court has failed to appreciate that the incident occurred on 4.12.2019 and prior thereto representations dated 17.5.2017 and 19.1.2019 were made by the petitioner against the respondents accused. It was further contended that from the report of the SC ST Cell, it is clear that on 4.12.2019 when she was at her home along with family members, one Jasubhai Barad from PGVCL and Ms. Bhumikaben had come along with other staff and they were using abusive and filthy language against caste of the the petitioner and learned trial Court has not considered the aforesaid facts while passing the impugned order. It was further contended that learned trial Court has not properly appreciated the statement given by the witnesses while passing the impugned order. It was further contended that from perusal of report of the SC ST Cell, it appears that complaints have been filed by the petitioner as a part of her duty as Sarpanch. It was further contended that learned trial Court has committed an error in not considering the deposition of the complainant while passing the impugned order. It was further contended that petitioner made representations for installation

of the Transformer due to low voltage and as the officer of the PGVCL did not pay any heed, the petitioner wrote to the Higher Officer, therefore, keeping grudge against the petitioner, false complaint has been lodged against the petitioner. Making above submissions, Ms. Shaikh, learned advocate for the petitioner has contended that petition be allowed as prayed for.

5.0. Per contra, Ms. Monali Bhatt, learned Additional Public Prosecutor has opposed the present petition. Ms. Bhatt, learned Additional Public Prosecutor for the respondent – State has contended that the impugned order passed by the Trial Court is just and proper and no interference is called for. Ms. Bhatt, learned Additional Public Prosecutor further contended that as per the affidavit of petitioner herself at Exh.9 wherein it is stated by the complainant that no incident was happened in presence of the witnesses and therefore, considering the affidavit of the petitioner itself, no process was issued against the accused. It was further contended that considering the video recording of the concerned police station, no such incident was happened as alleged by the petitioner. It was further contended that there is total contradiction in the complaint filed by the petitioner and the representation made before the concerned authority on

6.12.2019. It was further contended on perusal of the report submitted by the Deputy Commissioner of Police, SC ST Cell, Veraval, no case was made out for alleged offence against the officer of the PGVCL. It was further contended that petitioner has filed the complaint before the learned trial Court as a counterblast to the FIR lodged against the petitioner being CR No. 196 of 2019 before the Kodinar Police Station. It was further contended that as per documentary evidence produced by the petitioner, on 30.07.2019 the PGVCL has issued bill of Rs.54,457/- upon the petitioner with respect to the theft of electricity bill. Making above submissions, Ms. Bhatt, learned Additional Public Prosecutor contended that the present revision being meritless and deserve no merits and same deserves to be dismissed.

6.0. No other and further submissions/ contentions have been made by the learned advocates for the respective parties.

7.0. Heard learned advocates appearing for the parties and considered the submissions made by the learned advocates for the respective parties and also perused the impugned judgment and order passed by the learned trial Court. It is pertinent to

note here that it is the part of the duty of the Officers of the PGVCL to check the electricity connection of the Customers. That during the checking of electricity, theft of electricity was found from the house of the petitioner and PGVCL has issued a supplementary bill to the tune of Rs.54,457/-. It appears from the aforesaid, it is found that as a counterblast, the petitioner has filed complaint before concerned Court so as to avoid facing criminal charge for the offence of theft of electricity. This Court finds that the learned trial Court has rightly observed that as per the affidavit of petitioner herself at Exh.9 wherein it is stated by the complainant that no incident was happened in presence of the witnesses and therefore, considering the affidavit of the petitioner itself, no process was issued against the accused. Therefore, as per the version of the petitioner herself at Exh.9, no witnesses have present at the time of alleged incident. Considering the aforesaid, learned trial Court has rightly observed that no prima facie case is made out against the officers of the PGVCL. This Court also finds that there is total contradiction in the complaint filed by the petitioner and the representation made before the concerned authority on 6.12.2019. It further appears from the record that there is

sufficient piece of evidence, on the basis of which, the learned trial Court has rightly quashed and set aside Inquiry Case No. 1 of 2019. This Court also finds that learned trial Court has rightly considered the report submitted by the Deputy Commissioner of Police, SC ST Cell, Gir Somnath. The learned Trial Court also considered the video recording of the concerned police station and has found that no such incident was happened as alleged by the petitioner. It is pertinent to note here that witnesses of the petitioner have not supported the case of the petitioner and their statements are contradictory to the alleged incident.

8.0. It is settled law that the revisional powers of the High Court can only be exercised to prevent the abuse of the process of law and to secure the ends of justice. The process of law can be invoked by a principled and really aggrieved person who approaches the court with clean hands. The process of law cannot be allowed to be abused by a person who is facing trial for theft of Electricity and who himself avers such facts in his application under Section 156 (3) Cr.P.C., as indicate that he is guilty of committing theft of Electricity; by making baseless allegations against the officials of a PGVCL without any

supporting material or evidence. Apparently, the revisionist has filed that complaint in order to put a counter pressure on the officials for taking undue advantage in plural cases of theft of electricity lodged against the complainant .Keeping in view the facts and circumstances of the case, I am of the considered opinion that the order passed by the learned Judge, Special Court (Atrocity) and Additional District and Sessions Judge, Kodinar below Exh.1 in Criminal Inquiry No.1 of 2019 dated 12.01.2022 does not suffer from any legal infirmity so as to warrant interference by this Court in exercise of its discretionary power of revision.

9. Thus, in view of the above and for the reasons stated above, the impugned order does not suffer from any illegality, irregularity or impropriety and the Revision is liable to be dismissed and is hereby dismissed.

sd/-

(SAMIR J. DAVE,J)

KAUSHIK J. RATHOD