



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO. 163 OF 2025

Madhav S/o Sangram Rajkundle (Rajkundal),

Age: 46 years, Occu: Service,

R/o Tahsil Office, Dharmabad

Tq. Dharmabad, Dist. Nanded

at present Naigon (Kh.)

Tq. Naigaon (Bz.) Dist. Nanded

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. N. G. Kale, Advocate for the Applicant
- Mr. B. V. Virdhe, APP for the Respondent/State

CORAM : ABHAY S. WAGHWASE, J
RESERVED ON : FEBRUARY 12, 2026
PRONOUNCED ON : FEBRUARY 18, 2026

JUDGMENT :

1. Revisionist takes exception to judgment and order dated 05.05.2025 passed by learned Additional Sessions Judge, Biloli in Criminal Appeal No. 51/2018 upholding conviction for offence under Sections 465 & 471 of the Indian Penal Code (for short 'IPC') arising out of judgment and order dated 30.10.2018 passed by learned JMFC, Dharmabad in RCC No. 13/2009.

2. Learned Counsel for Revisionist would point out that, prosecution was launched against present Revisionist for offence under Sections 420, 465, 468 & 471 read with Section 34 of IPC on the report

of Nayab Tahsildar Dharmabad alleging that, accused no. 1, who was working as Talathi at Mauza Chincholi, by interpolation and overwriting converted agricultural land in Gut No. 106 to class-1 where in fact it fell in class-2. That, accused no.2 had helped in conversion and he got sale deed executed on the strength of said 7/12 extract and, therefore, on above accusations, above crime was registered and after investigation, Dharmabad police chargesheeted Revisionist and original Accused No. 2 and they were made to face trial. That, in fact, there was no evidence regarding commission of above offence and essential ingredients for attracting charges are patently missing from prosecution evidence but still initially learned Trial Court i.e. learned Court of JMFC convicted the accused and learned First Appellate Court confirmed the order of learned JMFC maintaining conviction for offences under Sections 465 and 471 IPC.

3. He pointed out that, complainant himself in cross has admitted that, he did not know who committed the interpolation and overwriting and, therefore, complainant's evidence was not useful for the prosecution. He further submitted that, evidence of very PW 6, was hearsay. That, in fact, the document on which there was overwriting was in his possession. That, there was no evidence that, Revisionist indulged in the act of converting land from one class to another. That,

moreover, when learned First Appellate Court recorded a finding that, there is no handwriting's experts evidence, and entire prosecutions' evidence ought to have been discarded. Further, according to him, so called sale deed executed on the strength of alleged document being registered, it carried presumptive value. That, the very document regarding which there were allegations of borrowing loan, were not placed before the Court and, therefore, entire story of prosecution had collapsed and, hence, it is his submission that, case of prosecution ought not to have accepted by Trial Court as well as First Appellate Court.

4. Learned Counsel took this Court through the observations of this Court while suspending sentence and conviction and would urge that, in the light of the same, there is error committed by both Trial Court as well as Appellate Court and so he urges to allow the Revision by setting aside the impugned order.

5. Learned APP would support the findings of Trial Court as well as First Appellate Court and prays to dismiss the Revision for want of merits.

6. This being revision, re-appreciation of the evidence is to be avoided. It is only to be tested whether impugned order is illegal, irregular or perverse. The object of revision has been lucidly and

succinctly dealt in the case of Amit Kapoor vs. Ramesh Chandra and Another, reported in (2012) 9 SCC 407. The relevant paragraph is borrowed and quoted hereunder:

Section 397 CrPC vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the court to scrutinise the orders, which upon the face of them bear a token of careful consideration and appear to be in accordance with law. Revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.

Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order. The court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injustice ex facie. Where the court is dealing with the question as to whether the charge has been framed properly and in accordance with law in a given case, it may be reluctant to interfere in exercise of its revisional jurisdiction unless the case substantially falls within the categories aforestated. Even framing of charge is a much advanced stage in the proceedings under the CrPC.

Revisional jurisdiction exercised by the High Court is in a way final and no inter court remedy is available in such cases. Of course, it may be subject to jurisdiction of the Supreme Court under Article 136 of the Constitution of India. Normally, a revisional jurisdiction should be exercised on a question of law. However, when factual appreciation is involved, then it must find place in the class of cases resulting in a perverse finding. Basically, the power is required to be exercised so that justice is done and there is no abuse of power by the court. Merely on apprehension or suspicion of the same would not be a sufficient ground for interference on such cases.

The jurisdiction of the court under Section 397 can be exercised so as to examine the correctness, legality or propriety of an order passed by the trial court or the inferior court, as the case may be. Though Section 397 CrPC does not specifically use the expression “prevent abuse of process of any court or otherwise to secure the ends of justice”, the jurisdiction under Section 397 CrPC is a very limited one. The legality, propriety or correctness of an order passed by a court is the very foundation of exercise of jurisdiction under Section 397 CrPC but ultimately it also requires justice to be done. The jurisdiction could be exercise where there is palpable error, non-compliance with the provisions of law, the decision is completely erroneous or where the juridical discretion is exercised arbitrarily.

7. Perused the papers and record.
8. Before learned JMFC, Dharmabad trial seems to be conducted against present Revisionist and another accused, who was arraigned as accused no. 2 for commission of offence under Sections 420, 465, 468, 471 read with Section 34 of IPC. Sum and substance of the

accusations is that, accused no.1, while acting as Talathi, converted land from class 2 to class 1 and carried out necessary changes in 7/12 extract and on the basis of same, a sale deed was got executed. Therefore, on said accusations, trial was conducted. Before Trial Court as many as eight witnesses are examined i.e. PW 1, 3, 4, 7 are Panch witnesses; PW 2 is Informant a Nayab Talshidar, PW 5 – Victim, PW 6 – witness and PW 8 is the I.O. After appreciating oral and documentary evidence, learned JMFC accepted the case of prosecution and convicted the accused for offence under Sections 420, 465, 468, 471 read with Section 34 of IPC.

9. Challenge to the above judgment seems to be taken by present Revisionist by filing Criminal Appeal bearing no. 51/2018 in the Court of Additional Sessions Judge, Biloli, who was pleased to uphold conviction but only for offence under Sections 465 and 471 of IPC and acquitted the accused for rest of the charges.

There is challenge to above order of learned Additional Sessions Judge before this Court.

10. So far as the offence punishable under Section 468 of IPC is concerned, it deals with forgery for purpose of cheating. It provides that, whoever commits forgery intending that the document or electronic record forged shall be used for the purpose of cheating, shall be

punished with imprisonment of either description of a terms which may extend to seven years, and shall also be liable to fine.

11. Similarly, for attracting chare of Section 471, it is incumbent upon prosecution to prove the document or electronic record is forged one, wherein such forgery is done dishonestly or fraudulently to gain pecuniary or non-pecuniary benefit. The accused made use of the forged document or electronic record as a genuine one. The accused knew or had a reason to believe that such document or electronic record is a forged one. The accused made use of the said document or electronic record in spite of knowing it to be a forged one.

12. Sum and substance of the above witnesses.

For handy reference, are reproduced as under.

PW 1 Panch to spot panchnama, which is office of Nayab Tahsildar and he identified panchnama Exhibit 86.

PW 2 is the informant/complainant and he, in his evidence, at Exhibit 87 deposed that, since 1986 to 2009 he was officiating at Tahsil office Dharmabad as Nayab Tahsildar. That, in 2008 accused was posted as Talathi, Chincholi. That, on 17.03.2008, he received letter from Tahsil office Dharmabad to register crime against accused for offence under Section 420 of IPC i.e. vide communication dated

26.03.2008. He identified said communication at Exhibit 88. According to him, accused no.1 had done interpolation and overwriting in 7/12 extract of land Gut No. 106. Land was converted from class 2 category to class 1, which is not permissible as land being tenancy land. Therefore, he lodged complaint/report, which is identified to be at Exhibit 89 and copy of 7/12 extract at Exhibit 90.

While under cross, he is unable to state the tenure of accused no. 1 at Chincholi. He is unable to state who was Talathi prior to appointment of accused at Chincholi. He answered that, he received Exhibit 88 i.e communication from Tahsildar on 27.03.2008 and according to him, after receipt of said letter, he had perused original 7/12 extract and mutation entry. He answered that, he had not made inquiries with original owner of land Gut No. 106 i.e. Jamilabee. He admitted that, mutation was carried out at the instance of Nayab Tahsildar but he is unable to state who was Nayab Tahsildar at that time. He answered that, prior to mutation as per procedure, notices were required to be issued but he is unable to state whether prior to incorporation of mutation entry vide Exhibit 92 whether such notices were issued or not. In paragraph 5 of the cross, he answered that, he came to know about overwriting in Exhibit 90 but he is unable to state exactly who carried out overwriting and he admitted lodgment of FIR

after one month of receipt of communication from Tahsil office.

In further cross at the hands of accused no.2, he admitted that, he had no occasioned to go through original documents of land gut no. 106 and who was its original tenant or when it was declared as tenancy land. He is also unable to state who was the original owner prior to tenancy. He also admitted that, said documents were not visited prior to lodging FIR.

PW 3 is the panch to obtaining specimen/natural handwriting and signature of accused, which are at Exhibits 96 to 99.

Nothing adverse has been brought in his cross.

PW 4 is the also is the panch to panchnama at Talathi office Exhibit 86.

Nothing has also not brought in his cross.

PW 5 is the original owner of land gut No. 106 and in her evidence, at Exhibit 101 she stated that, accused nos. 1 and 2 had obtained her thumb impression on paper pertaining to loan and she claims to have learned from others that, by cheating her accused had obtained her thumb impression for conversion of land from class 2 to class 1.

PW 6, testified at Exhibit 102, deposed that, he runs

information and service center in the office of Tahsildar, Dharmabad. He gave names of two office employees and further deposed that, on receipt of handwritten 7/12 extract prepared by Talathi, he used to issue computerized 7/12 extract to the farmers. According to him, on 18.12.2006 accused no.1 had visited his center along with 7/12 extract of Gut no. 106 and had taken away computerized copy. According to him, overwriting was done over 7/12 extract, counter initials were made thereupon and stamp was affixed and he was asked to convert the land from Class 2 to Class 1. He further deposed that, subsequently police came to him and questioned him, how class was converted from 2 to 1 and he allegedly told police about it being handed over by accused and he even identified it and consequently it was marked at Exhibit 103. He identified signatures of accused over the same.

In his cross, he denied all suggestions.

PW 7 is panch to seizure of papers of land gut no. 106 from the possession of accused no. 1 vide panchnama Exhibit 91. He deposed that, specimen signature of accused was also obtained.

In cross he is unable to state whether accused was in custody of police. He is unable to state whether while drawing panchnama Exhibit 105 whether signature of accused no. 1 was taken on 7/12 extract or not and he caused signature over the panchnama at

the instance of complainant.

PW 8 is the investigating officer.

While under cross he answered that he did not see the revenue record like Khasra Patra, Pahani Patra, 8A or original tenancy register. He is unable to state who was the original owner of the land. He admitted that, original owner Jamilabee had not lodged any complaint with police.

13. Here, on going through the record, admittedly, learned Trial Court, who conducted trial, has convicted accused for offence under Sections 420, 465, 468, 471 of IPC.

14. Further, learned First Appellate Court acquitted the accused for offence under Section 420 & 468 of IPC but maintained conviction for offence under Sections 465 and 471 read with Section 34 of the IPC.

15. The only charges, which remain after the impugned order of First Appellate Court, are Sections 468 and 471 of IPC, which deals with forgery and further knowing that said document is forged, the same to be put to use to cause wrongful gain to accused no.2.

16. As stated, learned First Appellate Court set aside the order

of conviction for Section 420 IPC holding that, there was no cheating to PW 5. Further, learned First Appellate Court held that, as handwriting expert was not examined, Exhibit 138 to be not admissible. Therefore, the aspect of very forgery has come under shadow of doubt, in spite of taking pains to collect the handwriting specimen and signature specimen of accused over seized documents.

17. From the substantive evidence of PW 2, who has set law into motion, more particularly, his cross clearly shows that, he allegedly succeeded accused as Talathi but he admitted that, he does not know who exactly carried out overwriting and interpolation. He has not personally seen the act of overwriting in the 7/12 extract register. He has apparently set law into motion on receiving communication from Tahsildar. He also has admitted that, he did not see the original record pertaining to Gut No. 106. Though he answered that, original 7/12 extract and mutation entry extract was seen by him after receipt of communication by Tahsildar, as stated above, in paragraph 5 of his cross, he candidly admitted that, he is unaware about who exactly carried out overwriting.

Therefore, here, firstly, there is no evidence of handwriting expert affirming overwriting to be done by accused only, endorsing signature over questioned document 7/12 extract. This witness has

admitted that, in spite of receipt of communication from Tahsildar, there was delay in lodging FIR and as such, delay itself has not been explained.

18. Now, next crucial witness here is PW 6, from whom investigating machinery has claimed to have got it confirmed that, there was handwritten 7/12 extract by accused and he after overwriting and changing the class tendered it for computerized copy. This witness examined at Exhibit 102 and his testimony is already reproduced above. According to him, on 18.12.2006 accused had come to him handed him handwritten 7/12 extract of Gut No. 106 and according to him, accused asked him to convert the class and he accordingly made necessary changes in the computer. It seems that, it is this witness who has handed over handwritten 7/12 extract to police. Therefore, custody of handwritten 7/12 extract, over which there was said to be overwriting and is under question is apparently seized from this witness. He cannot and he is not a witness to identification of signature of accused. Learned First Appellate Court has already discarded handwriting expert's report for non examination of handwriting expert and, therefore, when custody of alleged handwritten changed 7/12 extract is from PW 6, it is doubtful as to how the said act can be attributed to accused.

19. As regards to accused no.2 is concerned, there are

allegations that, he assisted accused no.1, but here accused no.2 has not questioned the order of either learned JMFC or the learned First Appellate Court.

20. For attracting charge of Section 468 IPC, prosecution has to establish creation of false document within the meaning of 464 IPC and that too further intention of cheating. Section 471 IPC requires proof that accused used forged document as genuine knowing or reasons to believe it to be forged at the time of its use. Therefore, the act of utilizing document is attributed to accused no.2 but there is no evidence in that regard in any of the witnesses. The very crucial aspect of chain of custody of the impounded 7/12 extract is rendered doubtful as it is shown to be taken in custody by police from PW 6 and not accused. Unless there is proof to show that accused authored or tampered the 7/12 extract, charges of forgery cannot be brought home. What this witness has merely stated this witness is, he has seen the accused encircling the entry and converting it from class 2 to class 1. Except such visual inference, there is no evidence to show that, PW 6 was acquainted with the signature or handwriting of accused. Here document is shown to be passing through several hands i.e. from accused to PW 6 and from PW 6 to police. Mere encircling of a document without there being sufficient proof of it to be solely done by accused

no.1 and none other, case of prosecution cannot be accepted. Therefore, here, for above reasons, it cannot be said to be proved that prosecution has discharged its burden beyond reasonable doubt. A person charged for 468 can only be convicted if he has committed forgery with the sole purpose of cheating. PW 5 owner of the land has not being cheated and she admitted to that extent. As long as use of alleged document, there is no distinct evidence.

21. To sum up, here informant himself has admitted in cross that, before lodging FIR he had no occasioned to go through the original file. He candidly admitted that, he does not know who actually committed overwriting. As stated above, 7/12 extract which is alleged to be manufactured after overwriting and changing class, is seized from PW 6 who ran the center. Therefore, all such aspects casts doubt over the very prosecution story.

22. Resultantly, in the light of above discussion, in the considered opinion of this Court, both learned Trial Court as learned First Appellate Court has failed to appreciate the evidence on record in its correct perspective and having erred, interference is called for. Hence, the following order:

ORDER

- (a) Criminal Revision Application is allowed.

- (b) Both judgment and order dated 05.05.2025 passed by learned Additional Sessions Judge, Biloli in Criminal Appeal No. 51/2018 upholding conviction for offence under Sections 465 & 471 of the Indian Penal Code and judgment and order dated 30.10.2018 passed by learned JMFC, Dharmabad in RCC No. 13/2009 are quashed and set aside to the extent of present Revisionist. Revisionist is hereby acquitted from all the charges levelled against him vide RCC No. 13/2009.
- (c) The personal bonds and surety bonds, if any, executed by the Revisionist shall stand cancelled, and the sureties are discharged.
- (d) Fine amount, if any, paid by Revisionist shall be refunded to him.

(ABHAY S. WAGHWASE, J.)

Umesh