

**(2025) 12 SHI CK 0008**

**Himachal Pradesh HC**

**Case No:** Criminal Revision No. 64 Of 2014

Pawan Kumar @ Pammi

APPELLANT

Vs

State Of HP

RESPONDENT

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**Date of Decision:** Dec. 3, 2025

**Acts Referred:**

- Indian Penal Code, 1860-Section 323, 354, 375, 376
- Code Of Criminal Procedure, 1973-Section 313, 397, 398, 399, 401, 437A, 482
- Evidence Act, 1872-Section 113A, 113B, 114A
- Bharatiya Nagarik Suraksha Sanhita, 2023-Section 481

**Hon'ble Judges:** Rakesh Kainthla, J

**Bench:** Single Bench

**Advocate:** Manoj Pathak, Ajit Sharma

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**Judgement**

Rakesh Kainthla, J

1. The present revision is directed against the judgment dated 3.1.2014, passed by learned Additional Sessions Judge, Ghumarwin, District Bilaspur (learned Appellate Court), vide which the judgment of conviction dated 9.1.2013 and order of sentence dated 10.1.2013, passed by learned Judicial Magistrate First Class, Court No.1, Ghumarwin, District Bilaspur (learned Trial Court) were upheld. (Parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience.)

2. Briefly stated, the facts giving rise to the present petition are that the victim (name being withheld to protect her identity) went to the market on 7.8.2009 to purchase the bangles. She went to the shop of the accused at about 12.50 pm and asked him to show her some bangles. The accused took out the bangles and kept them on the rack. When the victim was looking at the bangles, the accused caught hold of her arm and pressed her breasts. The victim protested and shouted for help. The accused gave beatings to the victim. Her daughter (PW2) was purchasing articles in another shop. She came to the spot after hearing the noise. Vicky also came to the spot

and rescued the victim from the accused. The victim telephoned the police. An entry (Ex.PW10/A) was recorded in the Police Station. ASI Anant Ram (PW6) and HHC Amrit Lal (PW7) went to the spot for verification. The victim made a statement (Ex.PW9/A) which was sent to the Police Station, where FIR (Ex.PW5/A) was registered. ASI Anant Ram investigated the matter. He prepared the site plan (Ex.PW6/A) and seized the torn shirt (Ex. P1), broken pieces of bangles (Ex. P2 to Ex. P22) vide memo (Ex.PW1/B). He put the shirt and the bangles in separate parcels and sealed each parcel with three impressions of the seal 'T'. Pawan Kumar produced the broken strainer, which was seized vide memo (Ex.PW3/A). It was put in a cloth parcel, and the parcel was sealed with three impressions of seal 'T'. Pawan Kumar produced a shirt that was torn in the incident. It was seized vide memo (Ex.PW6/B). It was put in a cloth parcel, and the parcel was sealed with three impressions of seal 'T'. Seal impression (Ex.PW6/C) was taken on a separate piece of cloth, and the seal was handed over to witness Amrit Lal after its use. Dr Bharti Ranot (PW4) medically examined the victim and found that she had sustained simple injuries which could have been caused within six hours of the examination. She issued the MLC (Ex.PW4/C). She also examined Pawan Kumar and found that he had sustained simple injuries that could have been caused in a scuffle. She issued MLC (Ex.PW4/D). Statements of witnesses were recorded as per their version, and after the completion of the investigation, a challan was prepared and presented before the learned Trial Court.

3. Learned Trial Court found sufficient reasons to summon the accused. When the accused appeared, a notice of accusation was put to the accused for the commission of offences punishable under Sections 323 and 354 of the IPC, to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined ten witnesses to prove its case. (PW1) is the informant/victim. (PW2) is her daughter and an eyewitness. Baldev (PW3) and Kamal Kumar (PW8) are eyewitnesses, but they did not support the prosecution's case. Dr Bharti (PW4) medically examined the accused and the victim. HC Naresh Kumar (PW5) signed the FIR. ASI Anant Ram (PW6) investigated the matter. HC Amrit Pal (PW8) is the witness to the recovery. Inspector Mool Raj (PW9) prepared the challan. Balbir Singh (PW10) proved the entry in the daily diary.

5. The accused, in his statement recorded under Section 313 of Cr.P.C., denied the prosecution's case in its entirety. He stated that the victim wanted to purchase the shoes on credit; however, she had to pay ₹2400/2500 to the accused as dues for the articles previously purchased by her. The accused demanded the money, but the victim refused to pay. The accused declined to sell the shoes on credit. The victim abused him. She falsely implicated the accused. He did not produce any evidence in defence.

6. Learned Trial Court held that the victim's testimony was corroborated by her daughter's testimony. The accused also admitted the presence of the victim in his shop. The medical evidence proved that the accused and the victim had sustained injuries which corroborated her victim's version that the accused had outraged her modesty and given beatings to her when she protested. Therefore, the learned Trial Court convicted the accused of the commission of offences punishable under Sections 323 and 354 of the IPC and sentenced him as under:-

Under Section 354 of IPC	To suffer simple imprisonment for a period of two years, pay a fine of ■5,000/- and in default of payment of fine, to undergo simple imprisonment for a period of three months.
Under Section 323 of IPC	To suffer simple imprisonment for a period of six months, pay a fine of ■1,000/- and in default of payment of fine, to undergo simple imprisonment for a period of one month.
Both the substantive sentences of imprisonment were ordered to run concurrently.	

7. Being aggrieved by the judgments and order passed by the learned Trial Court, the accused filed an appeal which was decided by the learned Additional Sessions Judge, Ghumarwin, District Bilaspur, H.P. (learned Appellate Court) Learned Appellate Court held that the testimony of the victim of a sexual assault is entitled to great weight. The presence of the victim in the shop of the accused was not disputed. His version that he refused to provide credit to the victim, and a false case was made against him, was not probable. The testimony of the victim's daughter could not be doubted because of the relationship alone. The credibility of the witnesses was impeached with reference to their previous statements, and they were shown to be unworthy of credit. The testimonies of the victim and her daughter were corroborated by medical evidence. The sentence imposed by the learned Trial Court was adequate. Hence, no interference was required with the judgment and order passed by the learned Trial Court. Accordingly, the appeal was dismissed.

8. Being aggrieved by the judgment and order passed by the learned Courts below, the accused has filed the present revision, asserting that the learned Courts below erred in appreciating the material placed before them. The prosecution's evidence was partisan and conflicting. The statements of witnesses were full of contradictions and improvements. The independent witnesses did not support the prosecution's case. Learned Trial Court erred in relying upon the testimonies of the victim and her daughter. Therefore, it was prayed that the present revision be allowed and the judgments and order passed by the learned Courts below be set aside.

9. I have heard Mr Manoj Pathak, learned counsel for the petitioner/accused, and Mr Ajit Sharma, learned Deputy Advocate General for the respondent/State.

10. Mr Manoj Pathak, learned counsel for the petitioner/accused, has submitted that the learned Courts below erred in appreciating the evidence. The defence version that the accused had demanded the money from the victim and she made a false case is highly probable. The victim did not produce her shirt immediately after the incident. The bangles were also not found inside the shop, which falsified the prosecution's version that the accused had molested the victim inside his shop. The independent witness did not support the prosecution's case, and the learned Courts below erred in discarding their testimonies.

The incident had taken place in the Bazaar, where many people were present. However, no independent witness was examined, and an adverse inference should have been drawn against the prosecution. Hence, he prayed that the present revision be allowed and the judgments and order passed by the learned Courts below be set aside.

11. Mr Ajit Sharma, learned Deputy Advocate General for the respondent/State, submitted that the learned Appellate Court had rightly held that the testimony of a victim of sexual assault is not to be discarded without any cogent reason. The victim's testimony was corroborated by the testimony of her daughter. The independent witnesses were the shopkeepers who deposed falsely at the instance of the accused. The learned Courts below had rightly discarded their testimonies. This Court should not interfere with the concurrent findings of fact recorded by the learned Courts below. Hence, he prayed that the present petition be dismissed.

12. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

13. It was laid down by the Hon'ble Supreme Court in *Malkeet Singh Gill v. State of Chhattisgarh*, (2022) 8 SCC 204: (2022) 3 SCC (Cri) 348: 2022 SCC OnLine SC 786 that a revisional court is not an appellate court and it can only rectify the patent defect, errors of jurisdiction or the law. It was observed at page 207:-

*"10. Before advertg to the merits of the contentions, at the outset, it is apt to mention that there are concurrent findings of conviction arrived at by two courts after a detailed appreciation of the material and evidence brought on record. The High Court in criminal revision against conviction is not supposed to exercise the jurisdiction like the appellate court, and the scope of interference in revision is extremely narrow. Section 397 of the Criminal Procedure Code (in short "CrPC") vests jurisdiction to satisfy itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior court. The object of the provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error which is to be determined on the merits of individual cases. It is also well settled that while considering the same, the Revisional Court does not dwell at length upon the facts and evidence of the case to reverse those findings.*

14. This position was reiterated in *State of Gujarat v. Dilipsinh Kishorsinh Rao*, (2023) 17 SCC 688: 2023 SCC OnLine SC 1294, wherein it was observed at page 695:

*"14. The power and jurisdiction of the Higher Court under Section 397 CrPC, which vests the court with the power to call for and examine records of an inferior court, is for the purposes of satisfying itself as to the legality and regularities of any proceeding 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 or the perversity which has crept in such proceedings.*

15. It would be apposite to refer to the judgment of this Court in *Amit Kapoor v. Ramesh Chander*, (2012) 9 SCC 460: (2012) 4 SCC (Civ) 687: (2013) 1 SCC (Cri) 986, where scope of Section 397 has been considered and succinctly explained as under: (SCC p. 475, paras 12-13)

*“12. Section 397 of the Code 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 it, bear a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the 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.*

*13. 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 the exercise of its revisional jurisdiction unless the case substantially falls within the categories aforesaid. Even the framing of the charge is a much-advanced stage in the proceedings under CrPC.”*

15. It was held in *Kishan Rao v. Shankargouda*, (2018) 8 SCC 165: (2018) 3 SCC (Cri) 544: (2018) 4 SCC (Civ) 37: 2018 SCC OnLine SC 651 that it is impermissible for the High Court to reappreciate the evidence and come to its conclusions in the absence of any perversity. It was observed at page 169:

*“12. This court has time and again examined the scope of Sections 397/401 CrPC and the grounds for exercising the revisional jurisdiction by the High Court. In *State of Kerala v. Puttumana Illath Jathavedan Namboodiri*, (1999) 2 SCC 452: 1999 SCC (Cri) 275, while considering the scope of the revisional jurisdiction of the High Court, this Court has laid down the following: (SCC pp. 454-55, para 5)*

*5. ... In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings to satisfy itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of supervisory jurisdiction exercised by the High Court for correcting a miscarriage of justice. But the said revisional power cannot be equated with the power of an appellate court, nor can it be treated even as a second appellate jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to 2025:HHC:41352 reappreciate the evidence and come to its conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to a gross miscarriage of justice. On scrutinising the impugned judgment of the High Court from the aforesaid standpoint, we have no hesitation in concluding that the High Court exceeded its jurisdiction in interfering with the conviction of the respondent by reappreciating the oral evidence.*

...

13. Another judgment which has also been referred to and relied on by the High Court is the judgment of this Court in *Sanjaysinh Ram ao Chavan v. Dattatray Gulabrao Phalke*, (2015) 3 SCC 123: (2015) 2 SCC (Cri) 19]. This Court held that the High Court, in the exercise of revisional jurisdiction, shall not interfere with the order of the Magistrate unless it is perverse or wholly unreasonable or there is non-consideration of any relevant material, the order cannot be set aside merely on the ground that another view is possible. The following has been laid down in para 14: (SCC p. 135)

“14. ... Unless the order passed by the Magistrate is perverse or the view taken by the court is wholly unreasonable or there is non-consideration of any relevant material or there is palpable misreading of records, the Revisional Court is not justified in setting aside the order, merely because another view is possible. The Revisional Court is not meant to act as an appellate court. The whole purpose of the revisional jurisdiction is to preserve the power in the court to do justice in accordance with the principles of criminal jurisprudence. The revisional power of the court under Sections 397 to 401 CrPC is not to be equated with that of an appeal. Unless the finding of the court, whose decision is sought to be revised, is shown to be perverse or untenable in law or is grossly erroneous or glaringly unreasonable or where the decision is based on no material or where the material facts are wholly ignored or where the judicial discretion is exercised arbitrarily or capriciously, the courts may not interfere with the decision in exercise of their revisional jurisdiction.”

16. This position was reiterated in *Bir Singh v. Mukesh Kumar*, (2019) 4 SCC 197: (2019) 2 SCC (Cri) 40: (2019) 2 SCC (Civ) 309: 2019 SCC OnLine SC 13, wherein it was observed at page 205:

“16. It is well settled that in the exercise of revisional jurisdiction under Section 482 of the Criminal Procedure Code, the High Court does not, in the absence of perversity, upset concurrent factual findings. It is not for the Revisional Court to re-analyse and re-interpret the evidence on record.

17. As held by this Court in *Southern Sales & Services v. Sauermilch Design and Handels GmbH*, (2008) 14 SCC 457, it is a well-established principle of law that the Revisional Court will not interfere even if a wrong order is passed by a court having jurisdiction, in the absence of a jurisdictional error. The answer to the first question is, therefore, in the negative.”

17. This position was reiterated in *Sanjabij Tari v. Kishore S. Borcar*, 2025 SCC OnLine SC 2069, wherein it was observed:

“27. It is well settled that in exercise of revisional jurisdiction, the High Court does not, in the absence of perversity, upset concurrent factual findings [See: *Bir Singh* (supra)]. This Court is of the view that it is not for the Revisional Court to re-analyse and re-interpret the evidence on record. As held by this Court in *Southern Sales & Services v. Sauermilch Design and Handels GmbH*, (2008) 14 SCC 457, it is a well-established principle of law that the Revisional Court will not interfere, even if a wrong order is passed by a Court having jurisdiction, in the absence of a jurisdictional error.

*28. Consequently, this Court is of the view that in the ab-sence of perversity, it was not open to the High Court in the present case, in revisional jurisdiction, to upset the concurrent findings of the Trial Court and the Sessions Court.*

18. The present revision has to be decided as per the parameters laid down by the Hon'ble Supreme Court.

19. The accused stated in his statement recorded under Section 313 of Cr.P.C. that the victim had visited his shop. He claimed that the victim wanted to purchase shoes on credit, but she had not paid the earlier money; therefore, he refused to sell the shoes on credit. The victim abused and quarrelled with him. Therefore, the presence of the victim in the shop and the quarrel with the accused are not disputed. The only dispute is whether the accused had outraged the modesty of the victim or the victim had picked up a quarrel with the accused.

20. Baldev (PW3) stated in his cross-examination by learned defence counsel that he had seen the victim outside the shop. The accused and the victim were having a scuffle. The victim did not complain of outraging her modesty. Her clothes were torn. The accused was demanding the previous balance from the victim.

21. Kamal Kumar (PW8) stated in his cross-examination that the accused was quarreling with the victim. The accused claimed that the victim was asking for credit, but she had not cleared her earlier dues, which led to the scuffle. The victim had not made any complaint of molestation.

22. The statements of these witnesses made the defence version highly probable, that there was no molestation but only a scuffle over the previous dues.

23. This fact is also corroborated by the entry (Ext.PW10/A), in which it was mentioned that the victim informed the Police Station that a shopkeeper had quarrelled with her and that the police should be sent to the spot. The victim had not complained of molestation, which makes her version doubtful that the accused had molested her in his shop.

24. An application (Ext.PW4/A) was filed for the victim's medical examination, stating that the victim had called the Police Station, asserting that she had gone to buy some articles. When she went to the shop of the accused to purchase the bangles, the accused caught hold of her hand. When she protested, the accused gave her beatings. The incident was witnessed by the victim's daughter. The victim had sustained injuries on both her arms, and she wanted to get herself medically examined.

25. This application bears an endorsement of the Medical Officer and the time 5:35 PM. The police had already recorded the statements of the victim (Ext.PW1/A) at 2:45 PM. Thus, the police were aware of the fact that the victim was also molested; however, this fact was absent from the application, which shows that no complaint of molestation was made till the application for medical examination was filed, and this casts a doubt regarding the prosecution's story that the accused had molested the victim.

26. The police also filed an application (Ex.PW4/B) for the medical examination of the accused, stating that it was found during the investigation that the victim had protested against the act of the accused of holding her hand. The accused was complaining of sustaining injuries in a scuffle with the victim, and his examination was necessary. Again, this application is silent regarding any complaint of molestation

27. The victim (PW1) stated that she had asked the accused to show her bangles. The accused took out the bangles. She was looking at the bangles when the accused caught hold of her hand and caught her breasts. She protested. The accused caught hold of her hair and beat her. He bit her thumb. She shouted, and her daughter came o the spot. She sustained injuries. She stated in her cross-examination that there are many shops in the vicinity. She remained in the shop of the accused for five minutes. She denied that she had sustained injuries while working at home, and she made a false case against t e accused.

28. She did not mention to the police (Ext.PW1/A) that the accused had bitten her thumb. Dr Bharti (PW4) noticed slight swelling and clotted blood over the victim's left thumb. Dr Bharti stated that the injuries could have been caused by a blunt weapon. She was not asked whether the injury on the victim's thumb noticed by her could have been caused by the bite or not, and there is no corroboration of the victim's testimony that the accused had bitten her thumb.

29. The victim claimed that the accused showed her the bangles inside the shop. He caught hold of her hands and molested her. He gave her beatings. Thus, as per the victim, the bangles were broken inside the shop. HC Amrit Lal (PW7) stated in his cross-examination that the memo (Ex.PW1/B) of the recovery of the shirt and bangle was prepared in the Police Station. He did not say that the bangles were picked up from the shop. The site plan (Ex.PW6/A) shows the shop of the accused at Point (a), but does not mention that any pieces of bangles were found inside the shop. Therefore, the recovery of the bangles does not establish that the accused had caught hold of the v ctim's hand and molested her inside the shop. ASI Anant Ram (PW6) stated in his cross-examination that he had not seen any broken bangles in the shop, and then corrected to say that he had not seen any pieces of bangles except those seized by him. The site plan and the memo prepared by him do not show that the bangles were recovered during the spot inspection. Therefore, the voluntary statement made by him will not help the prosecution.

30. The memo (Ex.PW1/B) mentions that the victim had produced a torn red shirt. The victim admitted in her cross-examination that her shirt was torn from the bottom. It does not corroborate her version that the shirt was torn when the accused had put his hand on her breast, because in that eventuality, the shirt should have been torn near the neck and not from the bottom.

31. Baldev (PW3) stated hat he was not sure that the victim was wearing green clothes. He corrected to say that this was so. This part f the statement will make it doubtful that the accused was wearing the shirt recovered by the police.

32. The victim's daughter (PW2) stated that she had gone to anot er shop to buy stationery. When she returned, she saw the accused sitting on the victim. He was holding the victim's hair.



Someone rescued the victim. She shouted for help. She was allowed to be cross-examined. She admitted that she saw her mother wearing a torn shirt, and the accused pushed her. She also admitted that the accused ripped the victim's shirt to dishonour her.

33. The statement of this witness is not satisfactory. She had initially testified about the scuffle, but when she was declared hostile, she admitted that the accused had also molested the victim. As per the initial statement (Ex PW1/A), the victim's daughter had reached after the accused had molested the victim, and when the accused and the victim were quarrelling, therefore, the statement of the victim's daughter in the Court that the accused had molested the victim is contrary to the prosecution's case and could not have been relied upon.

34. Learned Appellate Court held that the testimony of a victim of sexual assault should be relied upon. It was laid down by the Hon'ble Supreme Court in Tameezudeen Versus State 2009(15) SCC 566 that the principle that the prosecutrix's version has to be accepted in all cases is not correct. It was observed:

*"7. It is true that in a case of rape, the evidence of the prosecutrix must be given predominant consideration, but to hold that this evidence has to be accepted even if the story is improbable and belies logic, would be doing violence to the very principles that govern the appreciation of evidence in a criminal matter."*

35. This position was reiterated in Raju v. State of M.P., (2008) 15 SCC 133: (2009) 3 SCC (Cri) 751: 2008 SCC OnLine SC 1808, wherein it was observed:

*11. It cannot be lost sight of that rape causes the greatest distress and humiliation to the victim, but at the same time, a false allegation of rape can cause equal distress, humiliation and damage to the accused as well. The accused must also be protected against the possibility of false implication, particularly where a large number of accused are involved. It must, further, be borne in mind that the broad principle is that an injured witness was present at the time when the incident happened and that ordinarily, such a witness would not tell a lie as to the actual assailants, but there is no presumption or any basis for assuming that the statement of such a witness is always correct or without any embellishment or exaggeration.*

*12. Reference has been made in the Gurmit Singh case [(1996) 2 SCC 384: 1996 SCC (Cri) 316] to the amendments in 1983 to Sections 375 and 376 of the Penal Code making the penal provisions relating to rape more stringent, and also to Section 114-A of the Evidence Act with respect to a presumption to be raised with regard to allegations of consensual sex in a case of the alleged rape. It is, however, significant that Sections 113-A and 113-B were inserted in the Evidence Act by the same amendment by which certain presumptions in cases of abetment of suicide and dowry death have been raised against the accused. These two sections, thus, raise a clear presumption in favour of the prosecution, but no similar presumption with respect to rape is visualised as the presumption under Section 114-A is extremely restricted in its applicability. This clearly shows that, insofar as allegations of rape are concerned, the evidence of a prosecutrix must be examined as that of an injured witness whose presence at the spot is probable, but it can*

*never be presumed that her statement should, without exception, be taken as the gospel truth. Additionally, her statement can, at best, be adjudged on the principle that ordinarily no injured witness would tell a lie or implicate a person falsely. We believe that it is under these principles that this case, and others such as this one, need to be examined*

36. In the present case, there are various infirmities in the testimonies of the victim and her daughter and the statement of the victim could not have been relied upon without the corroboration.

37. The corroboration is lacking. Baldev (PW3) did not support the prosecution's case. He stated that he heard some noise and came out. He saw that the victim and the accused were having a scuffle. He separated them. The victim used to buy articles from the accused, and the incident was related to it. He was permitted to be cross-examined, and he denied the previous statement.

38. Kamal Kumar (PW8) also did not support the prosecution's case. He stated that he heard some noise and came out. He saw that the accused and the victim were having a scuffle. They fell on the articles kept outside the shop, and two strainers were damaged. He was permitted to be cross-examined. He stated that he saw the accused beating the victim. He separated the victim from the accused. He denied that the victim was complaining that the accused had molested her. He denied the previous statement recorded by the police.

39. Therefore, there is no corroboration of the testimony of the victim by the statement of this witness as well.

40. A heavy reliance was placed upon the medical evidence, but the medical evidence only proves that the accused and the victim had sustained injuries. It does not prove that the accused had molested the victim.

41. The prosecution has not explained the injuries to the accused. The victim or her daughter has not stated that the accused had sustained any injury. They only deposed about the beatings given to the victim. The injuries sustained by the accused corroborate the defence version that the victim had quarrelled with the accused, causing him the injuries.

42. Therefore, there are various infirmities in the prosecution's case which make it highly suspect. The learned Courts below did not advert to the infirmities and proceeded on the basis that the victim's statement is to be accepted as correct in all the circumstances. The improvement made by the victim, the absence of the complaint of molestation at the earliest, and the defence version competing with the prosecution version were ignored by the learned Courts below.

43. In view of the above, the judgments and orders passed by the learned Courts below cannot be sustained. Consequently, they are ordered to be set aside, and the petitioner/accused is acquitted of the charged offences. The fine, if deposited, be refunded to the petitioner/accused after the expiry of the period of limitation, in case no appeal is preferred, and in case of appeal, the same will be dealt with as per the orders of the Hon'ble Supreme Court of India.

44. In view of the provisions of Section 437-A of the Code of Criminal Procedure (Section 481 of Bhartiya Nagarik Suraksha Sanhita, 2023) the petitioner/accused is directed to furnish bail bonds in the sum of ■25,000/- with one surety in the like amount to the satisfaction of the learned Trial Court within four weeks, which shall be effective for six months with stipulation that in the event of Special Leave Petition being filed against this judgment, or on grant of the leave, the petitioner/accused on receipt of notice thereof, shall appear before the Hon'ble Supreme Court.

45. Records be sent back to the learned Trial Court forthwith, along with a copy of the judgment.