
(2025) 12 SHI CK 0008

Himachal Pradesh HC

Case No: Criminal Revision No. 198 Of 2014

Sohan Lal

APPELLANT

Vs

State Of H.P

RESPONDENT

Date of Decision: Dec. 4, 2025

Acts Referred:

- Indian Penal Code, 1860-Section 323, 325, 341, 504, 506
- Code Of Criminal Procedure, 1973-Section 313, 397, 398, 399, 400, 401, 437A, 482
- Bharatiya Nagarik Suraksha Sanhita, 2023-Section 481

Hon'ble Judges: Rakesh Kainthla, J

Bench: Single Bench

Advocate: G.R. Palsra, Lokender Kutlehria

Final Decision: Allowed

Judgement

Rakesh Kainthla, J

1. The present revision is directed against the judgment dated 20.06.2014, passed by learned Additional Sessions Judge (I), Mandi, H.P. (learned Appellate Court), vide which the judgment of conviction dated 22.06.2011 and order of sentence dated 27.06.2011 passed by learned Judicial Magistrate First Class, Court No.2, District Mandi, H.P. (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 revision are that the police presented a challan before the learned Trial Court for the commission of offences punishable under Sections 323, 341, 504, 506 and 325 of the Indian Penal Code (IPC). It was asserted that the informant, Kanauri Devi (PW1), was returning with her cattle on 16.07.2005 at about 3:00 pm. When she reached Siyabai, the accused Sohan Lal stopped her. He asked her why she had taken her cattle into his land. The informant replied that she had not taken her cattle to his land, and she was taking the cattle to her home. The accused abused the informant and gave her beatings with

sticks. She sustained injuries. She shouted for help. Bimla Devi (PW4) heard the noise and came to the spot. She rescued the informant from the accused. The accused threatened to kill the informant. The informant was taken to the hospital, and an intimation was given to the police. An entry (Ext.PW7/A) was recorded in the Police Station. ASI Vijay Pal (PW12) and LHC Nand Lal went to the hospital to verify the correctness of the information. ASI Vijay Pal (PW12) recorded the informant's statement (Ext.PW1/A) and sent it to the police station, where FIR (Ext.PW9/A) was registered. ASI Vijay Pal (PW12) investigated the matter. He prepared the site plan (Ext.PW12/A). The accused produced the stick (Ext.P1), which was seized vide memo (Ext.PW1/A). Dr R.D. Anand (PW11) medically examined the victim. He found that the victim had sustained multiple injuries. He referred her to the higher institution for further treatment and issued the MLC (Ext.PW11/A). Dr Sandeep Vaidya (PW5) conducted a partial patellectomy of the left leg of the informant at IGMCH Shimla. Fractures of the left Patella, right ulna, and base of the first right metacarpal were detected after the X-rays. Hence, the nature of injuries was grievous, which could have been caused within six hours of the examination by means of a stick (Ext.P1). Statements of witnesses were recorded as per the version, and after completion of the investigation, the challan was prepared and presented before the learned Trial Court.

3. The learned Trial Court found sufficient reasons to summon the accused. When the accused appeared, he was charged with the commission of offences punishable under Sections 325, 341, 323, 504 and 506 of the IPC, to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined 12 witnesses to prove its case. Kanauri Devi (PW1) is the informant. Bansi (PW2) was told about the incident. He went to the spot and took the informant with him. Kunta Devi (PW3) is an eyewitness. Bimla Devi (PW4) and Kamla Devi (PW10) did not support the prosecution's case. Dr Sandeep Vaidya (PW5) treated the informant at IGMCH Shimla. Khem Chand (PW6) is the witness to recovery. Ramesh Chand (PW7) proved the entry in the daily diary. Bansi Lal (PW8) is the witness to recovery. Prem Chand (PW9) signed the FIR. Dr R.D. Anand (PW11) medically examined the injured/victim. ASI Vijay Pal (PW12) investigated the matter.

5. The accused, in his statement recorded under Section 313 of Cr.P.C., denied the prosecution's case in its entirety and stated that a snake had bitten him and he was unable to walk due to the snake bite. He examined Munshi Ram (DW1), Ravi Sharma (DW2) and Inderjeet (DW3) in his defence.

6. Learned Trial Court held that the informant's testimony was corroborated by the medical evidence and the statement of Kunta Devi (PW3). There was nothing in their cross-examination to suggest that they were deposing falsely. The informant narrated the incident to her husband, Bansi (PW2), immediately after the incident. The mere fact that Bimla Devi (PW4) and Kamla Devi (PW10) had not supported the prosecution's case was not sufficient to doubt it. The statements of defence witnesses were not reliable. Minor contradictions in the statements of prosecution witnesses were not sufficient to discard them. Hence, the accused was convicted of the commission of offences punishable under Sections 323, 325, 341, 504 and 506 of the IPC and was sentenced as under:

Sections	Sentences
323 of IPC	The accused was sentenced to undergo three months simple imprisonment, pay a fine of ■1000/- and in default of payment of fine to undergo further 15 days of simple imprisonment.
325 of IPC	The accused was sentenced to undergo one year rigorous imprisonment, pay a fine of ■5000/- and in default of payment of fine to undergo further three months of simple imprisonment.
341 of IPC	The accused was sentenced to undergo one-month simple imprisonment, pay a fine of ■500/- and in default of payment of fine to undergo further 7 days simple imprisonment.
504 of IPC	The accused was sentenced to undergo three month rigorous imprisonment, pay a fine of ■ 1000/- and in default of payment of fine to undergo further 15 days of simple imprisonment.
506 of IPC	The accused was sentenced to undergo three months rigorous imprisonment, pay a fine of ■1000/- and in default of fine to undergo further 15 days of simple imprisonment.
It was ordered that all the substantive sentences of imprisonment shall run concurrently.	

7. Being aggrieved by he judgment and order passed by the learned Trial Court, the accused filed an appeal which was decided by the learned Additional Sessions Judge (I), Mandi, H.P. (learned Appellate Court). Learned Appellate Court concurred with the findings recorded by the learned Trial Court that the informant's testimony was corroborated by Kunta Devi (PW3) and the medical evidence. The enmity was not sufficient to doubt the prosecution's case. Minor discrepancies were bound to come and could not be used to discard the prosecution's case. The learned Trial Court had imposed an adequate sentence. No interference was required with the judgment and order passed by the learned Trial Court. Hence, the appeal was dismissed.

8. Being aggrieved by the judgments and order passed by the learned Courts below, the accused has filed the present revision asserting that the learned Courts below failed to appreciate the

evidence on record. Kanauri Devi (PW1) and Kunta Devi (PW3) were inimical to the accused. Ravi Sharma (DW2) stated that he had treated the accused after the snake bite, and it was difficult for him to commit the offence. The other defence witnesses proved the enmity between the informant and the accused. The statements of prosecution witnesses suffered from major contradictions. The sentence imposed by the learned Trial Court and affirmed by the learned Appellate Court is excessive. 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 G.R. Palsra, learned counsel for the petitioner/accused, and Mr Lokender Kutlehria, learned Additional Advocate General for the respondent/State.

10. Mr G.R. Palsra, learned counsel for the petitioner/accused, submitted that the learned Courts below failed to properly appreciate the material on record. Ravi Sharma (DW2) proved that the accused was admitted to the hospital after a snake bite, and it was not possible for him to commit the offence alleged against him. The informant had named Bimla Devi (PW4) as the person who had rescued her, but she did not support the prosecution's case. The names of Kamla Devi (PW10) and Kunta Devi (PW3) were not mentioned in the FIR, and their presence on the spot was highly suspect. Kunta Devi (PW3) is inimical to the accused, and learned Courts below erred in relying upon her testimony. Therefore, he prayed that the present revision be allowed and the judgments and order passed by the learned Courts below be set aside. He relied upon the judgments of *Rajinder Kumar vs. State of H.P.*, Latest HLJ 2009 (HP) 303, *Shanti Devi @ Shanti Mishra vs. Union of India and others* (2020) 10 SCC 766 and *Ex-Ct. Mahadev vs. Director General, Border Security Force and others* (2022) 8 SCC 502 in support of his submission.

11. Mr Lokender Kutlehria, learned Additional Advocate General for the respondent/State, submitted that Ravi Sharma (DW2) admitted in his cross-examination that the accused could have committed the offence, and the submission that the accused was not capable of committing the offence is not supported by the material on record. The defence witnesses proved the enmity, but the enmity is a double-edged weapon. The Medical Officer had found multiple injuries on the informant's body, which could have been caused by means of a stick. The explanation provided by the accused that injuries could have been caused by way of fall was not supported by the Medical Officer. This Court should not interfere with the concurrent findings of fact recorded by the learned Courts below. Therefore, he prayed that the present revision 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 advertng 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 "Cr C") 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 Ra* , (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 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 Ramrao 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.”

14. In the above case, also a conviction of the accused was recorded, and the High Court set aside [Dattatray Gulabrao Phalke v. Sanjaysinh Ramrao Chavan, 2013 SCC OnLine Bom 1753] the order of conviction by substituting its view. This Court set aside the High Court's order, holding that the High Court exceeded its jurisdiction in substituting its views, and that too without any legal basis.

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 [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. A similar view was taken 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 absence 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. Dr Ravi Sharma (DW2) stated that Sohan Singh was admitted to the hospital with effect from 10.07.2005 till 14.07.2005. The patient was given anti-venom. He was in pain but could do routine activities, which meant taking care of the meals and answering the call of nature. He stated in his cross-examination that the possibility of causing such a degree of violence, which was shown in the MLC, could not be ruled out by the accused, but in his opinion, it was difficult for him to do so.

20. The statement of this witness shows that the accused was discharged on 14.07.2005, and he was in pain at the time of his discharge. The incident occurred on 16.07.2005, two days after the

discharge. The Medical Officer stated that infliction of injuries could not be ruled out by the accused, but it would be difficult for him to do so. Thus, the testimony of this witness has made the prosecution's case doubtful.

21. The informant's statement (Ext.PW1/A) mentions Bimla Devi (PW4), w/o Sheru Ram, as the person who had rescued her from the accused. Bimla Devi (PW4) did not support the prosecution's case. She stated that she heard the noise of Kanauri Devi crying, but she did not leave her home. She subsequently asked the informant, but the informant did not reveal anything. She was permitted to be cross - examined. She stated that the accused was a resident of her village. He is not related to her. She denied that she was grazing the cattle on the date of the incident. She denied that she went to the spot after hearing the cries. She volunteered to say that Kanauri Devi had told her that the accused had given beatings to her with the sticks. She denied that she had rescued the accused.

22. It was submitted that her admission that Kanauri Devi (PW1) had told her about the beatings given by the accused corroborates the prosecution's version. This submission cannot be accepted. It is nobody's case that Kanauri Devi (PW1) had narrated the incident to her. Rather, the prosecution's case is that Kamla Devi had rescued Kanauri Devi (PW1) from the accused. Thus, the statement made by her that Kanauri Devi (PW1) had narrated the incident to her will not help the prosecution.

23. Kunta Devi (PW3) stated that she was grazing the cattle on 16.07.2005. She heard Kanauri Devi (PW1) crying. She went to the spot and saw that Sohan Lal was beating Kanauri Devi (PW1) with a stick. Bansi (PW2) came to the spot and took her home. She admitted in her cross-examination that the accused had cultivated the Mango trees on his land, and he had objected to the taking of cattle through his land. This shows that the relationship between the accused and this witness is strained. Thus, her testimony is required to be seen with due care and caution.

24. The informant, Kanauri Devi (PW1), stated that she shouted for help. Bimla Devi (PW4) and Kunta Devi (PW3) came to the spot. She stated in her cross-examination that she had mentioned the name of Kunta Devi (PW3) in her statement (Ext.PW1/A). She was duly confronted with the statement (Ext.PW1/A) wherein this fact was not recorded, clearly showing that this was an improvement, and the presence of Kunta Devi (PW3) on the spot is highly doubtful.

25. The informant Kanauri Devi (PW1) stated that the accused threatened her that he would not permit the cattle to go through the land where she was beaten. She admitted in her cross-examination that she was taking the cattle through this land for a long time, and even after the incident. The accused had never objected to the taking of cattle before that day or after that day. It is not explained as to why the accused would object to the taking of cattle on the date of the incident, when he had not objected before the incident and after the incident. Therefore, the motive to commit a crime by the accused is suspect.

26. The informant admitted in her cross-examination that the Panchayats were convened regarding the passage blocked by the accused in his land. This shows that the relations between the informant and the accused is strained.
27. The informant stated in her cross-examination that there was a hill between the place of the incident and where Kamla Devi (PW10) and Kunta Devi (PW3) were located, and it was not possible to hear anything because of the hill. This admission makes the prosecution's case suspect that Kunta Devi (PW3) heard the noise and came to the spot and witnessed the incident.
28. The informant admitted in her cross-examination that the house of the accused was located at a distance of 3 km from the place of the incident. The road is uphill. This statement, read with the statement of Dr Ravi Sharma (DW2), makes it difficult to believe that the accused would have travelled a distance of 3 km uphill to beat the informant when he was discharged two days before the incident and was in severe pain.
29. Bansi Lal (PW2) admitted in his cross-examination that he had reached the spot after half an hour, and the informant was unconscious. This makes his testimony in the examination-in-chief doubtful that the informant had narrated the incident to him.
30. Learned Courts below placed heavy reliance on the medical evidence. Dr R.D. Anand (PW11) stated that he had noticed 14 injuries which could have been caused by means of a stick (Ext.P1). He denied in his cross-examination that the injuries noticed by him could have been caused by means of a fall.
31. The stick (Ext.P1) was recovered by the police in the presence of Khem Chand (PW6) and Bansi Lal (PW8). Khem Chand (PW6) stated that the stick was seized in his presence, and he was told that it was taken from the accused. He stated in his cross-examination that the stick (Ext.P1) was not the same stick that was seized by the police. The statement of this witness in the cross-examination that the stick (Ext.P1) was not the same stick that was seized by the police makes the prosecution's case suspect that the stick (Ext.P1) was used to cause injuries to the informant.
32. Bansi Lal (PW8) stated that the stick (Ext.P1) was produced by the accused in his presence. He stated in his cross-examination that the stick (Ext.P1) was recently cut and was flat. The statement in the cross-examination that the stick was recently cut corroborates the statement of Khem Chand (PW6) that the stick (Ext.P1) was not the same. This witness was making the statement in the year 2008, and the stick (Ext.P1) was seized in the year 2005; therefore, the stick could not have been recently cut in the year 2008.
33. Bimla Devi (PW4) did not support the prosecution's case. She was permitted to be cross-examined. She denied that the accused had beaten Kanauri Devi. She volunteered to say that she had gone to attend the marriage on that day. She denied that she had rescued Kanauri Devi from the accused. She denied the previous statement recorded by the police. It is apparent from her statement that she has not supported the prosecution's case, and no advantage can be derived from the statement of this witness.

34. Thus, the prosecution is left with the testimony of the victim. She admitted that the relationship between her and the accused was strained. She had named Kamla Devi (PW10) as the person who had rescued her, who did not support the prosecution's case. She introduced Kunta Devi (PW3), another inimical witness whose presence on the spot is highly doubtful. Thus, in these circumstances, it would be difficult to place reliance on the sole testimony of the informant to convict the accused. Learned Courts below did not notice the fact that the name of Kunta Devi (PW3) was not mentioned initially, and no reliance could have been placed on her testimony, keeping in view the absence of her name in the initial version and the enmity with the accused. Further, the prosecution's version was made improbable by the statement of Ravi Sharma (DW2). Hence, in these circumstances, the accused was entitled to the benefit of doubt, and the learned Courts below erred in convicting the accused.

35. In view of the above, the present revision is allowed, and the judgments and order passed by the learned Courts below are set aside, and the accused is acquitted of the charged offences.

36. In view of the provisions of Section 437-A of the Code of Criminal Procedure [Section 481 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)], the petitioner/accused is directed to furnish his personal bond in the sum of ₹25,000/- with one surety in the like amount to the satisfaction of the learned Registrar (Judicial) of this Court/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(s) thereof, shall appear before the Hon'ble Supreme Court.

37. A copy of this judgment, along with the records of the learned Courts below, be sent back forthwith. Pending miscellaneous application(s), if any, also stand(s) disposed of.