

(2026) 12 SHI CK 0001

Himachal Pradesh HC

Case No: Criminal Revision No. 366 Of 2014

Harinder Singh

APPELLANT

Vs

State Of H.P

RESPONDENT

Date of Decision: Dec. 16, 2026

Acts Referred:

- Indian Penal Code, 1860-Section 279
- 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: Y.K. Thakur, Bhanu Verma, Ritik Prashar, Jitender K. Sharma

Final Decision: Disposed Of

Judgement

Rakesh Kainthla, J

1. The present revision is directed against the judgment dated 22.09.2014 passed by learned Additional Sessions Judge, Ghumarwin, District Bilaspur, H.P. (Camp at Bilsapur) (learned Appellate Court), vide which the judgment of conviction dated 06.09.2013 and order of sentence dated 07.09.2013 passed by learned Chief Judicial Magistrate, Bilaspur, 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 leading to the present revision are that the police filed a challan before the learned Trial Court against the accused for the commission of an offence punishable under Section 279 of the Indian Penal Code, 1860 (IPC). It was asserted that the informant, Rajesh Vaidya (PW-3), was going from Mandi to Chandigarh on 21.03.2004 in a car bearing registration No. CH-03D-0987. A tractor without bearing any registration number came from the opposite side at a high speed towards the wrong side of the road at Baner Mor at 12:45 pm and hit the left

side of the car. The steering rod was damaged by the accident. Accused Harminder Singh was driving the tractor at the time of the accident. The accident occurred due to the negligence of the accused. The matter was reported to the police. An entry No.14 (Ext.PW-5/A) was recorded in the Police Chowki. ASI Man Chand (PW-5) went to the spot for the verification of the information. He recorded the informants statement (Ext.PW3/A) and sent it to the Police Station, where FIR (Ext.PW-4/A) was registered. ASI Man Chand investigated the matter. He prepared the site plan Ext.PW-5/B. He seized the tractor vide memo (Ext.PW-1/A) and car vide memo (Ext.PW-1/B). ASI Trilok Chand (PW-1) took the photographs (Ext.PB to Ext.PC), whose negatives are Ext.PD and Ext. F. HHC Dev Raj (PW-2) mechanically examined the vehicles. He did not find any defect in the vehicles that could have led to the accident. Statements of the prosecution witnesses were recorded as per their version, and after completing the investigation, the challan was prepared and submitted 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 him for the commission of an offence punishable under Section 279 of the IPC, to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined five witnesses to prove its case. ASI Trilok Chand (PW-1) took photographs of the vehicles and witnessed the recoveries. HHC Dev Raj (PW-2) mechanically examined the vehicles. Rajesh Vaidya (PW-3) is the informant. Inspector Sita Ram (PW-4) signed the F.I.R. ASI Man Chand (PW-5) 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. He claimed that he was innocent and had not committed any offence. He stated that he wanted to lead evidence, but did not produce any evidence.

6. Learned Trial Court held that the accident had occurred on a blind curve. The tractor was being driven towards the wrong side. The spot map (Ext.PW-5/B) showed the skid marks to the extent of 15 feet. The accused was negligent because he drove the car towards the wrong side of the road at a high speed. Hence, the accused was convicted for the commission of an offence punishable under Section 279 of IPC and sentenced to undergo rigorous imprisonment for three months, pay a fine of ₹1000/- and in default of payment of fine to further undergo simple imprisonment for one month for the aforesaid offence.

7. Being aggrieved by the judgment and order of the learned Trial Court, the accused filed an appeal, which was decided by the learned Additional Sessions Judge, Ghumarwin, District Bilaspur, H.P. (Camp at Bilaspur) (learned Appellate Court). Learned Appellate Court held that the accused had admitted in his statement recorded under Section 313 of Cr.P.C. that he was driving the tractor at the time of

the accident. The statement made by the accused can be used to lend corroboration to the statements of the prosecution witnesses. Informant Rajesh Vaidya (PW-3) stated that the tractor was being driven towards the wrong side of the road. This was not challenged in the cross-examination. The site plan also showed that the tractor was being driven towards the wrong side of the road, which amounted to negligence. The sentence imposed by the learned Trial Court was adequate, and no interference was required with it. 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 erred in appreciating the evidence. The informant admitted in his cross-examination that the accident had occurred on a blind curve. The tractor was towing another tractor. It was going downhill and could not have been brought to a halt immediately after applying the brakes. The skid marks were wrongly construed as indicating the high speed of the tractor. The police reached the spot after the incident, and the informant had altered the crime scene to suit himself. The mechanical report shows that the damage was caused to the left side and not the drivers side. This falsified the prosecutions version that the accident had occurred towards the wrong side of the road. Hence, it was prayed that the revision be allowed and the judgments and order passed by the learned Courts below be set aside.

9. I have heard M/s Y.K. Thakur, Bhanu Verma and Ritik Prashar, learned counsel for the petitioner/accused, and Mr Jitender K. Sharma, learned Additional Advocate General, for the respondent/State.

10. Mr Y.K. Thakur, learned counsel for the petitioner, submitted that the learned Courts below erred in appreciating the evidence. The site plan shows that the accident occurred towards the right side of the car and not the right side of the tractor. The conclusion drawn by learned Courts below that the driver of the tractor was at fault is contrary to the material on record. The informant specifically stated in the complaint made to the police that the passenger side of the car was hit, which was not possible if the car was hit by a tractor moving on the right side. Mere use of high speed does not amount to negligence. The burden of proving the negligence lies upon the prosecution and cannot be shifted to the accused. 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 judgment of the Karnataka High Court in B.C. Ramachandra vs. State of Karnataka 2007 CRI.LJ475 and judgment of this Court in State of H.P. vs. Ashok Kumar 2018(Suppl.) Him. L.R. 3055 in support of his submission.

11. Mr Jitender K. Sharma, learned Additional Advocate General for the respondent/State, submitted that the site plan shows that the tractor was being driven towards the right side of the road, which was the proximate cause of the accident. Learned Courts below had rightly held that the accused was negligent, and 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 Honble 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 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 DilipsinhKishorsinh Rao*, (2023) 17 SCC 688: 2023 SCC OnLine SC 1294, wherein it was observed at page 695:

14. The power and jurisdiction of the igher 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 f satisfying itself as to the legality and regulari ies f 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 wo ld 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 the 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.

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. 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 Honble Supreme Court.

19. Rajesh Vaidya (PW-3) stated that he was going to Chandigarh on 21.03.2004. A tractor came at a high speed towards the wrong side of the road in Baner (Swarghat). It overtook another vehicle and hit the passenger side of the car.

The steering wheel was bent. The accident was caused due to the negligence of the driver of the tractor. He stated in his cross-examination that the accident had occurred on a curve. The tractor was coming from Swarghat towards Bilaspur. It was going downhill. Another tractor was connected to it. The speed of the tractor was 25-30 km per hour. He admitted that the driver of the tractor had applied the brakes, but the brakes could not be applied. He admitted that he had not sustained any injury.

20. The statement of this witness in the cross-examination that the tractor was being driven at a speed of 25-30 km per hour falsifies his statement in his examination-in-chief that the tractor was being driven at a high speed. The speed of a tractor of 25-30 km per hour on the National Highway is not excessive.

21. Rajesh Vaidya (PW-3) stated that the tractor was overtaking another vehicle and was being driven towards the wrong side of the road. This is not corroborated by reports of the mechanic (Ext.PW-2/A and Ext.PW-2/B), in which the left side of the car and the right side of the tractor were found damaged. It means that the tractor was towards the left side of the road, exposing its right side to the oncoming traffic, and the car was towards the right side of the road, exposing its left side to the oncoming traffic. Had the car and the tractor been driven towards their respective left sides, their right side would have been exposed to the oncoming traffic, and they would have suffered damage on the right side. The mechanical report (Ext.PW-2/B) belies the site plan and the photographs. The tractor had moved from its position and was shown on the unmetalled portion of the road. The car had also changed its position because its front is towards the central line of the road. Hence, the site plan and the photographs do not show the position of the vehicles at the time of the accident.

22. Therefore, the statement of informant Rajesh Vaidya (PW-3) does not show the true picture. The mechanical report makes it highly doubtful that the accident had occurred in the manner suggested by the prosecution. Learned Courts below did not notice the significance of the damage caused to the vehicles and relied upon the statement of Rajesh Vaidya (PW-1), the site plan and photographs to conclude that the accused was negligent while driving the vehicle. This conclusion could not have been drawn had the significance of the report of the mechanic been considered by the learned Courts below.

23. There is no other evidence to show how the accident took place. Thus, a reasonable doubt arises that the accident took place in the manner suggested by the prosecution, and the accused is entitled to its benefit.

24. The judgments cited on behalf of the petitioner deal with the applicability of *res ipsa loquitur*, which does not apply to the present case. Thus, no advantage can be gained from the cited judgments.

25. In view of the above, the present revision is allowed, and the judgments and order passed by the learned Courts below are ordered to be set aside, and the accused is ordered to be acquitted of the commission of an offence punishable under Section 279 of the IPC. The fine amount, if deposited by the petitioner/accused, shall be refunded to him after the expiry of the statutory period of limitation in case of no further appeal, and in case of appeal, it be dealt with as per the orders of the Honble Apex Court.

26. 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 is directed to furnish bail bonds in the sum of ₹50,000/- with one surety of the like amount to the satisfaction of the learned Trial Court which shall be effective for six months with a stipulation that in the event of a Special Leave Petition being filed against this judgment or on grant of the leave, the petitioner on receipt of notice thereof shall appear before the Hon'ble Supreme Court.

27. The present petition stands disposed of, so also the pending miscellaneous application(s), if any.

28. A copy of the judgment, along with records of the learned Courts below, be sent back forthwith.