

(2025) 12 SHI CK 0006

Himachal Pradesh HC

Case No: Criminal Revision No. 192 Of 2014

Tara Devi And Another

APPELLANT

Vs

State Of HP

RESPONDENT

Date of Decision: Dec. 18, 2025

Acts Referred:

- Indian Penal Code, 1860-Section 34, 323, 325, 342
- 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: N.S. Chandel, Shwetima Dogra, Prashant Sen

Final Decision: Allowed

Judgement

Rakesh Kainthla, J

1. The present revision is directed against the judgment dated 16.5.2014, passed by learned Additional Sessions Judge, Ghumarwin, District Bilaspur, Camp at Bilaspur (learned Appellate Court), vide which the judgment of conviction and order of sentence dated 30.1.2013, passed by learned Judicial Magistrate First Class, Court No. 2, 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 police presented a challan before the learned Trial Court against the accused for the commission of offences punishable under Sections 323, 325 and 342 read with Section 34 of the Indian Penal Code (IPC). It was asserted that the victim/informant Ranjeet Singh (PW1) was told by Satya Devi (PW5) on 21.9.2010 that the accused Rattan Singh was digging the land for laying the foundation of his house, whereas the Court had already passed an order of partition of the land. The informant Ranjeet

Singh went to his home. He requested accused Rattan Singh to stop the construction. He returned after some time. He was armed with a stick to defend himself. Rattan Singh, Tara Devi and Shashi Kumar dragged him to the room. Shashi Kumar gave beatings to the informant with a stick. The informant sustained injuries to his finger and left wrist. An intimation was given to the police. Pushap Raj (PW8), Bhupinder Singh, HHC Om Prakash and HHG Pawan Kumar were sent to verify the correctness of the information. ASI Pushap Raj recorded the informants statement (Ex.PW1/A) and sent it to the Police Station, where FIR (Ex.PW8/A) was registered. ASI Pushap Raj filed an application (Ex.PW7/A) for the medical examination of the injured. Dr Priyanka (PW7) medically examined informant Ranjeet Singh and found that he had sustained multiple injuries. She advised X-ray. Dr D. Bhangal (PW6) went through X-ray and found fractures of the right ulna and proximal phalanx of the left index finger. He issued the report (Ex.PW6/A). Dr Priyanka (PW7) stated that the nature of the injury was grievous. She issued the MLC (Ex.PW7/B). Dr Priyanka also examined accused Rattan Singh and found that he had sustained multiple injuries. She advised X-ray, but no fracture was detected. Hence, the nature of the injury was stated to be simple. She issued the MLC (Ex.PW7/B). ASI Pushap Raj investigated the matter. He went to the spot and took photographs (Ex.PW8/C1 to Ex.PW8/C3) and prepared the site plan (Ex.PW8/D). Accused Shashi Kumar produced two sticks (Ex. P1 and Ex.P2) and one lock. These were seized vide memo (Ex.PW2/A). The statements of witnesses were recorded as per their version, and after the completion of the investigation, the 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, they were charged with the commission of offences punishable under Sections 342, 323 and 325 read with Section 34 IPC, to which they pleaded not guilty and claimed to be tried.

4. The prosecution examined nine witnesses to prove its case. Ranjeet Singh (PW1) is the informant/victim. Prem Dass (PW2), Anjana Devi (PW3), Mukesh Kumar (PW4) and Satya Devi (PW5) are the eyewitnesses. Dr D. Bhangal (PW6) went through the X-ray. Dr Priyanka (PW7) conducted medical examination of the injured. ASI Pushap Raj (PW9) investigated the matter. Rajesh Kumar (PW9) took the X-rays.

5. The accused, in their statements recorded under Section 313 of Cr.P.C., denied the prosecutions case in its entirety. They stated that the witnesses deposed falsely against them because of enmity. They tendered the documents in their evidence.

6. Learned Trial Court held that the testimonies of the prosecution witnesses corroborated each other. The enmity between the parties was not sufficient to discard the prosecution's case. Testimonies of related witnesses cannot be equated with the testimonies of interested witnesses. The medical evidence corroborated the informants version. Non-examination of independent witnesses was not material. The FIR was promptly lodged, and its contents corroborated the informants

statement. Hence, the learned Trial Court convicted each of the accused of the commission of offences punishable under Sections 323, 325 and 342 of the IPC and sentenced them as under:-

Under Section 342, read with Section 34 of the IPC

To suffer simple imprisonment for six months each, pay a fine of ₹500/- each and in default of payment of fine, to undergo simple imprisonment for 10 days each.

Under Section 323 read with Section 34 of the IPC.

To suffer simple imprisonment for a period of six months each.

Under Section 325 read with Section 34 of the IPC

To suffer simple imprisonment for two years each, pay a fine of ₹500/- each and in default of payment of fine, to undergo simple imprisonment for 10 days each.

All the substantive sentences of imprisonment were ordered to run concurrently.

7. Being aggrieved by the judgment and order passed by the learned Trial Court, the accused preferred an appeal which was decided by the learned Additional Sessions Judge, Ghumarwin, District Bilaspur, HP, Camp at Bilaspur (learned Appellate Court). Learned Appellate Court concurred with the findings recorded by the learned Trial Court that the informants testimony was believable. It was corroborated by the statements of the other witnesses and the medical evidence. The enmity was not sufficient to doubt the prosecution's case. Learned Trial Court had imposed an adequate sentence, and 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 have filed the present revision asserting that the learned Courts below erred in appreciating the material on record. The injured stated that he had sustained injuries on the index of his right hand and the joint of his left hand, whereas the Medical Officer stated that the injured had received injured on his right ulna and left index finger. Thus, the medical evidence contradicted the informants statement. The medical record was tampered with, and the word Lt. were substituted by Rt. and Rt. were substituted by Lt. The informant claimed that he was confined inside the house, but nobody saw him inside the house. The place of the incident was located in a heavily populated area, but no independent person was examined by the prosecution. An adverse inference should have been drawn against the prosecution or withholding the independent witnesses. Therefore, it was prayed

that the present petition be allowed and the judgments and order passed by the learned Courts below be set aside.

9. I have heard Mr N.S. Chandel, learned Senior Counsel assisted by Ms. Shewtima Dogra, Advocate, learned counsel for the petitioner/accused, and Mr Prashant Sen, learned Deputy Advocate General for the respondent/State.

10. Mr N.S. Chandel, learned Senior Counsel for the petitioner/accused, submitted that the medical evidence contradicted the informants testimony. The record was tempered by substituting Rt. by Lt. and Lt. by Rt. The investigation was not fair. The informant was armed with a stick, which shows that he was an aggressor. The accused had sustained injury and no explanation was provided for it. Hence, he prayed that the present petition be allowed and the judgments and order passed by the learned Courts below be set aside.

11. Mr Prashant Sen, learned Deputy Advocate General for the respondent/State, submitted that the informants testimony was duly corroborated by the witnesses. Dr. Priyanka (PW7) had wrongly mentioned the words left and right in the X-ray Form, and this fact was pointed out by Dr D. Bhangal. Dr. Priyanka realised her mistake after the endorsement was made by Dr D. Bhangal and corrected the error. There was no attempt to forge the documents. Learned Courts below had properly appreciated the material on record, and 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 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. 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 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. MukeshKumar*, (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 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. The statement (Ex.PW1/A) mentioned that the informant had sustained injury on his right finger and left wrist. Dr Priyanka (PW7) found a blunt blow over the right hand and a blunt blow over the left forearm, lower end. The patient was advised X-ray of the right hand and left forearm. Dr D. Bhagnal (PW6) examined the X-ray and found the fractures of the right ulna and proximal phalanx of the left index finger. Therefore, the medical evidence does not corroborate the informant's statement regarding the injuries sustained by him.

20. Dr Priyanka (PW7) issued a final opinion that, as per the report of the Radiologist, there was a fracture of the left ulna lower end and a fracture of the

proximal phalanx of the right index finger. This final opinion is contrary to the statement of Dr D. Bhagnal (PW6), who had found a fracture of the proximal phalanx of the left index finger and a fracture of the right lower ulna. He had also issued the report (Ex.PW6/A) to this effect. It was submitted that Dr D. Bhagnal had mentioned in his report (Ex.PW6/A) to check for the side, as the right and left sides were different in the X-ray film and X-ray form. Dr Priyanka realised her mistake after noticing the endorsement made by the Radiologist and corrected her error. This submission is without any material on record. Dr Priyanka nowhere stated that she had noticed the error and corrected it in the MLC. She wrote the opinion of the Radiologist contrary to the actual opinion of Dr D. Bhagnal. This remained unexplained. The burden of explaining this fact was upon the prosecution, who had failed to do so, and the fractures noticed by the Radiologist would make the opinion of Dr Priyanka and the statement of the injured suspect that the injuries were caused on the right index finger and left ulna. This can also lead to another inference that X ray of some other person and not the injured person was taken. Either of these possibilities will make the prosecutions case suspect.

21. The statement (Ex.PW1/A) specifically mentions that the informant was armed with a stick for his self-defence. The informant also stated on oath that he went to the spot where the digging was being carried out armed with a stick. He did not say that he had used the stick to save himself. Ram Dass (PW2), Anjana Devi (PW3), Mukesh Kumar (PW4) and Satya Devi (PW5) did not state that the informant was holding a stock and that he had used it to defend himself.

22. Dr Priyanka (PW7) medically examined the accused Rattan Singh and found a blunt blow over the lower back, which could have been caused within four hours of the examination by means of a stick. She issued the MLC (Ex.PW7/B). No explanation has been provided for the injuries sustained by the accused. The non-explanation of the injury assumes significance in the present case because the prosecution itself has projected the case that the informant went armed with a stick to the place of the incident. It was laid down by the Honble Supreme Court in *Parshuram v. State of M.P.*, 2023 SCC OnLine SC 1416, that the non-explanation of the injuries on the person of the accused assumes significance when the evidence consists of interested or inimical witnesses and the defence version competes in probability with the prosecution case. It was observed:-

31. We do not find the said observation of the trial court correct. The injuries sustained by Ramrup @ Roopa are from a sharp weapon. It will be trite to refer to the following observations of this Court in the case of *Lakshmi Singh v. State of Bihar* (1976) 4 SCC 394:

12. . It seems to us that in a murder case, the non-explanation of the injuries sustained by the accused at about the time of the occurrence or in the course of the altercation is a very important circumstance from which the court can draw the following inferences:

- (1) that the prosecution has suppressed the genesis and the origin of the occurrence and has thus not presented the true version;**
- (2) that the witnesses who have denied the presence of the injuries on the person of the accused are lying on the most material point, and therefore their evidence is unreliable;**
- (3) that in case there is a defence version which explains the injuries on the person of the accused, it is rendered probable so as to throw doubt on the prosecution's case.**

The omission on the part of the prosecution to explain the injuries to the person of the accused assumes much greater importance where the evidence consists of interested or inimical witnesses or where the defence gives a version which competes in probability with that of the prosecution. In the instant case, when it is held, as it must be, that the appellant Dasrath Singh received serious injuries which have not been explained by the prosecution, then it will be difficult for the court to rely on the evidence of PWs 1 to 4 and 6, more particularly, when some of these witnesses have lied by stating that they did not see any injuries on the person of the accused. Thus, neither the Sessions Judge nor the High Court appears to have given due consideration to this important lacuna or infirmity appearing in the prosecution's case. We must hasten to add that, as held by this Court in *State of Gujarat v. Bai Fatima* (1975) 2 SCC 7: 1975 SCC (Cri) 384, there may be cases where the non-explanation of the injuries by the prosecution may not affect the prosecution's case. This principle would obviously apply to cases where the injuries sustained by the accused are minor and superficial or where the evidence is so clear and cogent, so independent and disinterested, so probable, consistent and creditworthy, that it far outweighs the effect of the omission on the part of the prosecution to explain the injuries. The present, however, is certainly not such a case, and the High Court was, therefore, in error in brushing aside this serious infirmity in the prosecution case on unconvincing premises

32. A similar view with regard to non-explanation of injuries has been taken by this Court in the cases of *State of Rajasthan v. Madho* 1991 Supp (2) SCC 396, *State of M.P. v. Mishrilal (Dead)* (2003) 9 SCC 426, *Nagarathinam v. State Represented by Inspector of Police* (2006) 9 SCC 57 and recently in the case of *Nand Lal v. State of Chhattisgarh* 2023 SCC OnLine SC 262

33. Undisputedly, in the present case also, the witnesses are interested witnesses. The injuries sustained by the three accused persons are not at all explained. The trial court and the High Court have not considered this aspect of the matter.

34. Non-explanation of injuries on the persons of the accused would create doubt as to whether the prosecution has brought on record the real genesis of the incident or not. Undisputedly, as observed hereinabove, a cross-case was also registered against the complainant party for the injuries sustained by the accused persons.

23. Therefore, non-explanation of the injuries has to be considered while evaluating the prosecution's case.

24. Ranjeet Singh (PW1) admitted in his cross-examination that the Regular Second Appeal was dismissed by the High Court. He denied that he came to know about the dismissal of the appeal and went to the spot armed with the stick.

25. Satya Devi (PW5) admitted in her cross-examination that her husband had filed an appeal before the High Court, which was dismissed on 14.9.2010. Therefore, the statement made by the informant that he was not aware of the dismissal of the appeal by the High Court is not correct. If Satya Devi was aware of the dismissal of the appeal on 14.9.2010, there is no reason why the informant could not have been aware of the dismissal. The denial of the informant shows that he is concealing the facts from the Court, and no reliance can be placed upon his testimony.

26. The statement (Ex.PW1/A) mentions that Rattan Singh hugged the informant. Rattan Singh, Tara Devi and Shashi Kumar dragged him to a room and locked him inside the room. This version was changed in the Court. Ranjeet Singh stated that the wife of Rattan Singh caught him by his waist, and Rattan Singh caught him from the front. Son of Rattan Singh gave him beatings, and he sustained injuries. It is not explained that if the accused Rattan Singh had caught hold of the informant from the front side and the wife of the accused Rattan Singh had caught hold of the informant from the rear, how the informant could have sustained injuries. The informant was shielded from both sides by Rattan Singh and his wife, and any blow inflicted upon the informant would have landed upon Rattan Singh or his wife.

27. Satya Devi (PW5) is the informant's wife. She stated that Rattan Singh caught the legs of the informant, and Rattan Singh's son gave him beatings. Rattan Singh's son and wife had caught hold of the waist of the informant. They took the informant inside the room and locked him in the room. She stated in her cross-examination that she was not aware of the digging because she never went to the spot. Her husband was angry. He picked up a stick and went to the spot. She did not remember that she had told the police about the beatings. She had told the police that Rattan Singh had caught the legs of the informant. A Court question was asked whether she had seen the beatings. She answered negatively. She volunteered to say that she had seen beatings in her courtyard, then stated that she was not aware of anything about the case. She admitted that she had myopia and was unable to see objects at a distance.

28. The cross-examination of this witness makes it difficult to rely upon her version. As per the prosecution, the incident occurred near the house of accused Rattan Singh, where construction was being carried out. The site plan (Ex.PW8/D) shows the place of the incident in the house of Rattan Singh. The informant's house is shown at a distance across the road, and according to Satya Devi, both houses are located at a distance of 500 ft. She saw some incident in her courtyard, and the prosecution did not claim that any such incident had taken place in the courtyard. She claimed that she had difficulty seeing objects located at a distance, but was able to see the incident taking place at a distance of 500 feet. She further stated that she had not seen anybody giving beatings to anyone, which makes it difficult to believe that she had witnessed the incident. All these aspects make it difficult to rely upon the testimony of this witness.

29. Ram Dass (PW2) stated that he saw that Rattan Singh and Tara Devi had caught Ranjeet Singh, and their son was beating Ranjeet Singh with a stick. Ranjeet Singh was locked in a room. He stated in his cross-examination that a partition had taken place between his father, the father of the accused Tulsi Ram and another uncle about 50 years ago. The parties are cultivating the land separately. The construction was being carried out, but he could not tell the number of people who were carrying out the construction. He did not call any person to the spot. He was present in his shop, which was located at a distance of 2-3 minutes walk from the place of the incident. He denied that he, Ranjeet Singh and Krishan Singh forcibly tried to occupy the land.

30. The statement of this witness shows that he had seen the incident from his shop, which is located at a distance of 2-3 minutes walk from the place of the incident. The site plan (Ex.PW8/D) shows his shop towards the other side of the house of Rattan Singh. There is no evidence that the place of the incident is visible from the shop. Therefore, it is difficult to rely upon his testimony.

31. Further, this witness was declared hostile by the prosecution, and he was permitted to be cross-examined. He denied the previous statement (Mark-R) recorded by the police. Therefore, his credit has been impeached with reference to his previous testimony, and it is difficult to rely upon his version.

32. Anjana Devi (PW3) stated that she heard some noise. She saw that Tara Devi and Rattan Lal had caught hold of Ranjeet Singh, and their son was beating him with the stick. She went to the spot and saw that Ranjeet Singh and Rattan Singh were confined to a room, and the door was locked. She stated in her cross-examination that the land was jointly owned. Hem Raj, Hans Raj, Mahant Ram and Pratap Chand had constructed the shops. She admitted that a bus stand is located near the shop of Ram Dass, and the people waiting for the bus sit in the shop. The buses keep arriving every 15 minutes. She went to the spot after 20-25 minutes of hearing noise. She denied that any incident had taken place in her presence.

33. Her testimony in the cross-examination that she had visited the spot after about 20-25 minutes of hearing the noise would make it difficult to rely upon her testimony. It is nobody's case that the incident had continued for 20-25 minutes; thus, she cannot be called an eyewitness.

34. Mukesh Kumar (PW4) stated that he came to the spot and saw that Rattan Singh was confined to the room and the door was locked. He was permitted to be cross-examined. He denied that Rattan Singh was also confined to the room with Ranjeet Singh. He volunteered to say that Ranjeet Singh was inside the room and Rattan Singh was outside the room. He denied the previous statement recorded by the police.

35. The statement of this witness also does not establish the prosecution's case because the prosecution's case is that Rattan Singh and Ranjeet Singh were both confined to the room and the door was locked, whereas he stated that Ranjeet Singh was confined to the room and Rattan Singh was outside the room.

36. It was admitted by the witness that houses of other people are located in the vicinity. No person was examined from the locality to corroborate the prosecution's version. Thus, an adverse inference has to be drawn against the prosecution.

37. It was submitted that Pushap Raj (PW8) visited the spot and took the photographs wherein the door is shown to be locked, and two persons are inside the room. This corroborates the prosecution's version. This submission cannot be accepted. Pushap Raj (PW8) has not stated that he opened the lock of the door and found Rattan Singh and Ranjeet Singh inside the room. Rather, he stated in his cross-examination that the lock was opened by Sashi Kumar, and the lock was in the hand of Shashi Kumar after it was opened, clearly suggesting that the door was opened before his arrival. The property search and seizure form (Ex.PW2/A) mentions the seizure of one lock and two sticks, and it does not mention that the lock was opened in the presence of the police; therefore, not much advantage can be derived from the photographs of the spot.

38. Learned Courts below were swayed by the fact that medical evidence corroborated the informant's version; however, they failed to look into the report of Dr. Bhagnal (PW6) and the discrepancy in the fractures detected by him vis-à-vis the injuries claimed to have been sustained by the informant. They also failed to appreciate the significance of the informant taking the stick with him and going to the spot after coming to know of the construction being raised by the accused. They failed to notice that the prosecution had not explained the injuries sustained by the accused, and the prosecution was relying upon the statements of the related witnesses, and the defence version that the informant was the aggressor, competed in probability with the prosecution version. These circumstances created a reasonable doubt in the prosecution's case, and the accused were entitled to its benefit. Therefore, the judgments and order passed by the learned Courts below

cannot be sustained.

39. In view of the above, the present revision is allowed; judgments and order passed by the learned Courts below are ordered to be set aside, and the petitioners/accused are acquitted of the charged offences. The fine, if deposited be refunded to the petitioners/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 Honble Supreme Court of India.

40. In view of the provisions of Section 437-A of the Code of Criminal Procedure (Section 481 of Bhartiya Nagarik Suraksha Sanhita, 2023) the petitioners/accused are directed to furnish bail bonds in the sum of ₹25,000/- each with one surety each 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 petitioners/accused on receipt of notice thereof, shall appear before the Honble Supreme Court.

41. Records be sent back to the learned Courts below forthwith, along with a copy of the judgment.