

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No. 38 of 2015

Reserved on: 28.11.2025

Date of Decision: 01.01.2026.

Rajinder Singh

...Petitioner

Versus

State of H.P.

...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No

For the Petitioner : Mr Lalit Kumar Sharma,
Advocate.

For the Respondent/State : Mr Ajit Sharma, Deputy
Advocate General.

Rakesh Kainthla, Judge

The present revision is directed against the judgment dated 12.12.2014, passed by learned Additional Sessions Judge-II, Shimla, camp at Rohru (learned Appellate Court), vide which the judgment of conviction dated 07.06.2011 and order of sentence dated 23.06.2011, passed by learned Judicial Magistrate First Class, Court No.2, Rohru, District Shimla, H.P. (learned

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

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 against the accused for the commission of an offence punishable under Section 325 of the Indian Penal Code (IPC). It was stated that the victim/informant, Phul Kumari (PW2), was employed as a Chowkidar in the orchard of Rajinder Singh (the accused). She left the job and started working as a Chowkidar in the orchard of Jagmal Singh (PW4). Rajinder Singh owed the informant's wages of five months. The informant demanded her wages, but the accused evaded the issue. She went to the orchard of the accused on 31.07.2009 at about 4 PM and demanded the money. The accused was sleeping at that time. She called him. Accused woke up, started beating the informant and threw her off the Verandah. She sustained injuries. She narrated the incident to Min Bahadur (PW1) and Jagmal Singh (PW4), who advised her to make a complaint before the police. She went to the Police Station and reported the matter to the police. The police recorded an entry in the daily diary

(Ext.PW2/A). Dr Anajana (PW3) medically examined the victim and found that she had sustained multiple injuries. She advised X-ray, and a fracture of the fourth metacarpal proximal, 1/3rd of the fourth metacarpal was detected in the X-ray. The nature of the injury was stated to be grievous. The police registered the FIR (Ext.PW6/C). HC Tenjing Chhering (PW6) investigated the matter. He prepared the site plan (Ext.PW6/A) and recorded the statements of witnesses as per their version. After the completion of the investigation, the challan was prepared and presented before the learned Trial Court.

3. The learned Trial Court charged the accused with the commission of an offence punishable under Section 325 of the IPC, to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined 6 witnesses to prove its case. Min Bahadur (PW1) accompanied the victim to the police station. Phul Kumari (PW2) is the informant/victim. Dr Anjana (PW3) medically examined the victim. The victim narrated the incident to Jagmal Singh (PW4), who advised her to report it to the police. Constable Trilok Chand (PW5) proved the entry in the daily diary. HC Tenjing Cheering (PW6) 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 stated that the witnesses were interested and deposed against him falsely. He did not produce any evidence in defence.

6. Learned Trial Court held that the victim's testimony was corroborated by the statement of Jagmal Singh (PW4) and the medical evidence. The injuries sustained by the victim were found to be grievous. Hence, the accused was convicted of the commission of an offence punishable under Section 325 of IPC and was sentenced to undergo simple imprisonment for six months, pay a fine of ₹1000/- and in default of payment of fine to undergo further simple imprisonment for 15 days.

7. Being aggrieved by the judgment and order passed by the learned Trial Court, the accused filed an appeal, which was decided by the learned Additional Sessions Judge-II, Shimla, camp at Rohru (learned Appellate Court). The learned Appellate Court concurred with the findings recorded by the learned Trial Court that the victim's testimony was satisfactory. It was duly corroborated by the medical evidence and the testimony of Jagmal Singh (PW4). There was no reason to disbelieve the

victim's testimony. Learned Trial Court had rightly convicted the accused and 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 erred in appreciating the evidence properly. The prosecution had failed to prove its case beyond a reasonable doubt. The victim's testimony was highly contradictory. Jagmal Singh (PW4) admitted in his cross-examination that he was not on speaking terms with the accused and made the statement at the instance of the informant. The informant claimed that Vinod Kumar had witnessed the incident, but he was not examined by the prosecution. An adverse inference should have been drawn against the prosecution for withholding him. Dr Anajana (PW3) admitted in her cross-examination that injuries could be caused by a fall. No independent witness corroborated the victim's testimony, and learned Courts below erred in relying upon the victim's testimony. 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 Lalit Kumar Sharma, learned counsel, for the petitioner/accused and Mr Ajit Sharma, learned Deputy Advocate General for the respondent-State.

10. Mr Lalit Kumar Sharma, learned counsel for the petitioner/accused, submitted that the learned Courts below failed to properly appreciate the evidence. The victim's testimony was contradictory, and no reliance could have been placed upon it. Jagmal Singh (PW4) was inimical to the accused, and the possibility of falsely implicating the accused at his instance could not be ruled out. The Medical Officer admitted in her cross-examination that injuries sustained by the victim could have been caused by a fall. There was no unequivocal corroboration of the victim's testimony by the medical evidence. The learned Courts below failed to extend the benefit of the Probation of Offenders Act to the accused. Hence, 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 Hon'ble Supreme Court in *Kanhaiya Lal & Ors*

vs. State of Rajasthan, AIR 2013 SC 1940, State of Haryana vs. Ram Singh, AIR 2002 SC 620, Chander Pal vs. State of Haryana, AIR 2002 SC 989, Harijana Thirupala and Ors. vs. Public Prosecutor AIR 2002 SC 2821, Chellammal and another vs. State represented by Inspector of Police 2025 INSC 540 and State versus Sanjiv Bhalla and another in Criminal Appeal Nos. 1338-1339 of 2014 decided on 04.07.2014 in support of his submission.

11. Mr Ajit Sharma, learned Deputy Advocate General for the respondent/State, submitted that both the learned Courts below found the victim to be a credible witness. This is a pure findings of fact, and this Court should not interfere with the pure findings of fact while exercising the revisional jurisdiction. The victim's testimony was corroborated by the medical evidence, and the learned Courts below had rightly relied upon it. Hence, 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 “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 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. 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 Hon'ble Supreme Court.

19. The victim Phul Kumari (PW2) stated that she had worked as a Chowkidar with Jagmal Singh (PW4) for 1½ years. Earlier, she had worked with the accused as a Chowkidar. The accused owed her the wages of five months. She demanded her wages, but the accused evaded the issue. She went to the house of the accused. The accused was sleeping. She called the accused. The accused woke up, gave her beatings, and threw her off the Verandha. She sustained injuries, and her finger was fractured. The incident was witnessed by Vinod. However, he had left the country and gone to his home in Nepal. She reported the matter to the police. She stated in her cross-examination that she had left the employment of the accused and had not settled the accounts with the accused. She admitted that the accused used to pay the expenses of her ration. She admitted that Jagmal Singh (PW4) had advised her to file the complaint. The house of KTC was located adjacent to the house of the accused, where the Chowkidar Tek Bahadur used to reside. She admitted that Jagmal

had taken her to his orchard after concealing this fact from the accused. She had narrated the incident to Tek Bahadur. She admitted that she and Raju have no accounts to settle.

20. It was submitted that (her statement in the cross-examination) she and the accused have no account to settle makes the prosecution's case highly suspect because, as per the victim, the incident occurred when she demanded her wages from the accused. This submission will not help the accused. It was laid down by the Hon'ble Supreme Court in *Prem Prakash v. State of Haryana*, (2011) 11 SCC 687 : (2011) 3 SCC (Cri) 463: 2011 SCC OnLine SC 907 that the statement of a witness has to be read as a whole, and it is impermissible to rely upon a stray sentence to discard the prosecution's version. It was observed at page 693:

“19. The evidence, essentially, must be viewed collectively. The statement of a witness must be read as a whole. Reliance on a mere line in the statement of the witness, out of context, would not serve the ends of justice, and the conclusion of the court based on such an appreciation of evidence could be faulted.”

21. The victim categorically stated in her examination-in-chief that the accused owed her wages for five months. She stated in her cross-examination that she had not settled the

account with the accused, which corroborates her version. Therefore, the statement in her cross-examination that she had no account to settle will not make her testimony suspect.

22. She admitted in her cross-examination that Jagmal Singh (PW4) had employed her without informing the accused. This admission will not make her an unreliable witness because Jagmal, and not she, was at fault as per the suggestion. Thus, no advantage can be derived from this admission.

23. She admitted that she was advised by Jagmal to make a complaint to the police, and she filed the complaint with the police after this advice. It was submitted that she had made the complaint at the instance of Jagmal, who has inimical relations with the accused. This admission will not make the prosecution's case suspect. The victim is a poor labourer and a resident of Nepal. She would have no means of knowing the remedies available to her after she was beaten. Thus, the mere advice by Jagmal to approach the police does not amount to a false implication at the instance of Jagmal.

24. Her testimony is corroborated by Dr Anjana (PW3), who stated that she medically examined the victim and found a

superficial abrasion at the back of the left ankle and multiple injuries. She advised X-ray, and the nature of the injury was stated to be grievous as there was a fracture of the fourth metacarpal proximal, 1/3rd of the fourth metacarpal. The injuries could have been caused by means of a blunt weapon. She admitted in her cross-examination that the injury noticed by her could have been caused by a fall. This admission will not make the prosecution's case suspect; rather, it will corroborate the prosecution's version that the accused had thrown her off the verandah after beating her.

25. Jagmal Singh (PW4) stated that the victim told him about the beatings given by the accused to her when she had gone to the accused to demand the wages. She had sustained injuries. He accompanied the victim and Min Bahadur (PW1) to the police station and got the entry in the daily diary registered. He stated in his cross-examination that he was not present on the spot and no incident had taken place in his presence. He admitted that he was making the statement at the instance of Phul Kumari (PW2). He also admitted that victim Phul Kumari (PW2) had reported the matter to the police at his instance. He

admitted that he used to talk to the accused, but he was not on talking terms with him.

26. The testimony of this witness corroborates the victim's statement. The victim had narrated the incident to him on the date of the incident, and his testimony would be admissible under Section 157 of the Indian Evidence Act.

27. It was submitted that the admission made by him in the cross-examination that no incident had occurred in his presence shows that he is not an eyewitness. This submission will not help the accused. The prosecution examined him to corroborate the victim's testimony and not as an eyewitness. Thus, the admission made by him in the cross-examination that the incident had not occurred in his presence will not make the prosecution's case suspect.

28. He admitted that he was not on talking terms with the accused. It was submitted based on this admission that he is an inimical witness and his testimony should not be believed. This submission will not help the accused. It was laid down by the Hon'ble Supreme Court in *Kanhaiya Lal v. State of Rajasthan*, (2013) 5 SCC 655 : (2013) 3 SCC (Cri) 498: 2013 SCC OnLine SC

375 that the Court should examine the testimony of the interested witness carefully, and it can form the basis for conviction, if found reliable. It was observed at page 665:

24. In *Hari Obula Reddy v. State of A.P. (1981) 3 SCC 675: 1981 SCC (Cri) 795*, a three-Judge Bench has opined that it cannot be laid down as

“an invariable rule that interested evidence can never form the basis of conviction unless corroborated to a material extent in material particulars by independent evidence. All that is necessary is that the evidence of the interested witnesses should be subjected to careful scrutiny and accepted with caution. If, on such scrutiny, the interested testimony is found to be intrinsically reliable or inherently probable, it may, by itself, be sufficient, in the circumstances of the particular case, to base a conviction thereon.” (SCC pp. 683-84, para 13)

25. In *Kartik Malhar v. State of Bihar (1996) 1 SCC 614: 1996 SCC (Cri) 188* this Court has stated (SCC p. 621, para 15) that a close relative who is a natural witness cannot be regarded as an interested witness, for the term “interested” postulates that the witness must have some interest in having the accused, somehow or the other, convicted for some animus or for some other reason.

29. Min Bahadur (PW1) stated that the victim told him about the beatings given by accused Rajinder when she had demanded the wages. He admitted in his cross-examination that no incident had taken place in his presence. His testimony is admissible under Section 157 of the Indian Evidence Act and corroborates the victim’s testimony.

30. It was submitted that the prosecution had failed to examine Vinod Kumar, who was present at the time of the incident, and an adverse inference should be drawn against the prosecution for withholding him. This submission cannot be accepted. Phul Kumari (PW2) specifically stated that Vinod Kumar had gone to Nepal. Thus, the reason for his non-examination was duly explained, and no adverse inference can be drawn for withholding him.

31. Therefore, the learned Courts below had rightly relied upon the testimonies of the informant, Jagmal Singh (PW4) and Min Singh (PW1) and medical evidence to hold that the accused had beaten the victim.

32. It was submitted that Dr Anjana (PW3) had referred the victim for X-rays, and the radiologist was not examined to prove the X-ray. Therefore, there is no evidence of the fracture. This submission will not help the accused. Dr Anjana (PW3) categorically stated after the X-ray that the fracture of the proximal 1/3rd of the fourth metacarpal was detected. She exhibited the X-ray form and the Skiagram. She was not cross-examined regarding this part of her testimony. Nothing was

suggested to her that she was incompetent to go through the X-ray and form an opinion. Her testimony regarding the fracture has remained unchallenged and cannot be rejected.

33. Her testimony shows that the victim had suffered grievous injury. Therefore, the learned Trial Court had rightly held the accused guilty of committing an offence punishable under Section 325 of the IPC.

34. In *Ram Singh (supra)*, the Hon'ble Supreme Court held that the testimonies of the witnesses were not believable because their conduct was contrary to the statements. In the present case, the testimonies of prosecution witnesses do not suffer from any infirmity, and the cited judgment will not help the accused.

35. In *Chander Pal (supra)*, the Hon'ble Supreme Court found that there were various contradictions in the testimony of the eyewitnesses which made the prosecution's case suspect. This judgment turned on its facts and will not apply to the present case.

36. In *Harijana Thirupala (supra)*, the Hon'ble Supreme Court held that the High Court was in error in disturbing the

order of acquittal without displacing the reasons assigned by the learned Trial Court. This judgment applies to an appeal against acquittal. In the present case, the Court is dealing with a revision and not an appeal against acquittal; hence, no assistance can be derived from the cited judgment.

37. In *Chellammal (supra)*, the Hon'ble Supreme Court held that the benefit of the Probation of Offenders Act can be granted to an accused convicted under Section 498A of the IPC.

38. In *Sanjiv Bhalla (supra)*, the Hon'ble Supreme Court held that the provisions of the Probation of Offenders Act should be considered while awarding the sentence.

39. In the present case, the accused gave beatings to the victim when she demanded the wages due to her. This act of the accused shows that the petitioner/accused wanted the victim to work for him without the payment of wages, which is another form of 'Begaar', specifically prohibited by Article 23 of the Constitution of India. Any leniency in such matters would encourage the people to violate the constitutional provisions and shake the foundation of the nation, which is based upon the

constitution itself. Therefore, no leniency can be shown to the petitioner in the present case.

40. Learned Trial Court had imposed a sentence of six months, which cannot be said to be excessive. Considering the circumstances that a poor, helpless woman was beaten simply for standing up for her rights to get the wages for the work done by her, the sentence of six months is adequate, and no interference is required with the sentence imposed by the learned Trial Court.

41. No other point was urged.

42. In view of the above, the present petition fails, and it is dismissed. Pending applications, if any, also stand disposed of.

43. A copy of this judgment, along with the record of the learned Courts below, be sent back forthwith.

(Rakesh Kainthla)
Judge

1st January, 2026
(Nikita)