

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****Cr. Revision No. 284 of 2026****Reserved on: 19.06.2026****Date of Decision: 30.06.2026**

---

**Amar Singh and another****...Appellants****Versus****State of H.P.****...Respondent**

---

*Coram****Hon'ble Mr Justice Rakesh Kainthla, Judge.******Whether approved for reporting?<sup>1</sup> No.*****For the Appellants : Ms Aruna Chauhan, Advocate****For the Respondent/State : Mr Jitender Sharma, Additional  
Advocate General.**

---

**Rakesh Kainthla, Judge**

The present revision is directed against the judgment dated 17.02.2026, passed by the learned Additional Sessions Judge-II, (Camp at Theog), Shimla, District Shimla, H.P. (learned Appellate Court), vide which judgment of conviction dated 01.05.2023 and order of sentence dated 27.06.2023, passed by

learned Additional Chief Judicial Magistrate, Theog, District Shimla, 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 filed a charge-sheet against the accused for the commission of an offence punishable under 61(1)(a) of Punjab Excise Act, as applicable to the State of H.P. It was asserted that ASI Sanjay Kumar (PW-8) and other officials were on patrolling duty on the intervening night of May, 20/21 of 2011. They intercepted a vehicle bearing registration No. HP-16-3560 at about 1:05 a.m. The accused were travelling in the vehicle. The police demanded the documents of the vehicle, but the accused could not produce them. The driver identified himself as Sohan Lal, and the person sitting beside the driver identified himself as Amar Singh. The police found 90 cartons, each containing 12 bottles of country liquor of Himachal No.1. The police demanded a permit/licence for transporting the liquor, but the accused could not produce any permit. The police took the 20 bottles as samples for analysis from the twenty boxes and sealed the samples with seal impression 'A'. The seal impression (Ext.PW-8/G) was taken on a separate piece of

cloth, and the seal was handed over to Constable Mohar Singh after its use. The police seized the liquor vide memo (Ext.PW2/A). ASI Sanjay Kumar (PW-8) prepared a rukka (Ext.PW-8/A) and sent it to the Police Station, where an F.I.R. (Ext.PW-3/A) was registered. ASI Sanjay Kumar (PW-8) investigated the matter. He prepared the site plan (Ext.PW-8/B), seized the documents of the vehicle vide memo (Ext.PW-2/B) and recorded the statements of the witnesses as per their versions. The samples were sent to CTL, Kandaghat, for analysis. The result of analysis (Ext.PW-8/F-1 to (Ext.PW-/F-7) were issued, stating the samples were of country liquor. After the completion of the investigation, the challan was prepared and presented before the Court.

3. The learned Trial Court found sufficient reasons to summon the accused. When the accused appeared, they were charged with the commission of an offence punishable under Section 61(1)(a) of the Punjab Excise Act, as applicable to the State of H.P., to which they pleaded not guilty and claimed to be tried.

4. The prosecution examined eight witnesses to prove its case. HHC Mohar Singh (PW-2), Constable Rajesh Kumar (PW-3) and SI Sanjay Kumar (PW-8) are the witnesses to the recovery. HHC Ramesh Kumar (PW-1) proved the entry in the daily diary and

forwarded the case property from Police Post Fagu to Theog. Inspector Yusaf Ali (PW-4) signed the F.I.R. Het Ram (PW-5) was working as MHC with whom the case property was deposited. Constable Mohinder Singh (PW-7) carried the case property to CTL, Kandaghat. Reeta Devi (PW-6) is the owner of the vehicle.

5. The accused, in their statements recorded under Section 313 of Cr.P.C., denied the prosecution's case in its entirety. They did not produce any evidence in their defence.

6. Learned Trial Court held that the testimonies of police witnesses corroborated each other. It was a case of chance recovery, and it was not possible to join any independent witness. Even otherwise, the non-association of independent witnesses does not make the prosecution's case doubtful. Nothing was shown in the cross-examination of the witnesses that they had any motive to depose against the accused. The minor contradictions in the statements were not sufficient to discard the prosecution case. The integrity of the case property was duly established. The transportation of even 20 bottles without a permit or license is impermissible. Hence, the learned Trial Court convicted the accused of the commission of offences punishable under Section 61 (1)(a) of the Punjab Excise Act as applicable to the State of H.P. and

sentenced them to undergo simple imprisonment for six months each, pay a fine of ₹1000/- each and in default of payment of fine to undergo further imprisonment for one month each.

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 Theog) District, Shimla, H.P. (learned Appellate Court). The Appellate Court concurred with the findings recorded by the learned Trial Court that the statements of the prosecution witnesses corroborated each other. The integrity of the case property was duly proved. There was nothing on record to show that the police officials had any motive to depose against the accused. Minor contradictions in the statements of the witnesses were not sufficient to discard them. The non-production of the seal before the Court will not make the prosecution's case suspect. There was no infirmity in the judgment and order passed by the learned Trial Court. Hence, the learned Appellate Court dismissed the appeal.

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. There were major contradictions in the statements of official witnesses. The link evidence was not proven. The prosecution had only sent 20 bottles for analysis, and it has not been proved that 20 cartons contained liquor. Independent witnesses were not joined, which made the prosecution's version highly suspect. 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 Ms Aruna Chauhan, learned counsel for the petitioner/accused, and Mr Ajit Sharma, learned Deputy Advocate General, for the respondent/State.

10. Ms Aruna Chauhan, learned counsel for the petitioner/accused, submitted that the learned Courts below erred in appreciating the material on record. The police had failed to join independent witnesses, which made the prosecution's case highly suspect. There were major contradictions in the statements of the prosecution witnesses. Not all the bottles were sent for analysis to CTL Kandaghat, and only 20 bottles were sent. Therefore, she prayed that the present revision be allowed and the judgments and order passed by the learned Courts below be set aside. She relied upon the judgments of *Himachal Pradesh vs. Sukh Dev and others*, Cr.

*Appeal No.54 of 2007, decided 02.01.2019 and State of HP vs Anil Kumar 2025:HHC;43246* in support of her submissions.

11. Mr Ajit Sharma, learned Deputy Advocate General, for the respondent/State, submitted that the testimonies of prosecution witnesses corroborated each other. There were no major contradictions in the statements of the police officials, and minor contradictions are bound to come with time. The incident had occurred in the middle of the night, and it was not possible to join any independent witnesses. The learned Courts below had rightly held that failure to join independent witnesses is not sufficient to discard the prosecution's case. There is no infirmity in the judgments and order passed by learned Courts below; hence, he prayed that the present revision be dismissed.

12 I have given a 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* [*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 amount 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. The present revision has to be decided as per the parameters laid down by the Hon’ble Supreme Court.

18. HHC Mohar Singh (PW-2) stated that he, ASI Sanjay Kumar (PW-8) and Constable Rajesh Kumar (PW-3) had set up a Nakka at Kot Kainchi at 11:10 p.m. A vehicle bearing registration No. HP-16-3560 came from Naina's side at about 1:05 a.m. The police signalled the vehicle to stop, and the driver was asked to produce the document, but he could not produce any document. The police searched the vehicle and found 90 cartons each containing 12 bottles of liquor bearing the mark Himachal No.1. The police demanded the permit/license for transporting the liquor, but the occupants could not produce any permit/license. The driver identified himself as Sohan Lal, and the person sitting beside the driver identified himself as Amar Singh. The police took out one bottle as sample from each carton, and in this manner, twenty bottles were taken. Each bottle was sealed with a seal impression ‘A’. The seal impression was also taken on a separate piece of cloth, and the seal was handed over to him (HHC Mohar Singh) after its

use. The liquor was seized vide memo (Ext.PW-2/A). He identified his signatures on the memo and the case property produced in the Court. He stated in his cross-examination that the police had reached the spot at about 12:15 a.m. and remained on the spot for 1½ hours. He denied that there were houses in the vicinity. He volunteered to say that the houses were located at 1½ KMs from the spot. The bottles were counted after unloading them. The investigating Officer had not put any seal/mark on the cartons seized on the spot.

19. Rajesh Kumar (PW-3) also made a similar statement as was made by HHC Mohar Singh (PW-1) in his examination-in-chief, and it is not being reproduced to avoid prolixity and repetition. He stated in his cross-examination that the police had reached the spot at about 12:15 a.m. He admitted that the police had not joined any independent person during the investigation. The bottles counted after unloading a few cartons. Twenty cartons were opened on the spot. He admitted that the cartons do not have any seizure or identification marks. He denied that no recovery was effected from the accused.

20. ASI Sanjay Kumar (PW-8) also made a similar statement as was made by Mohar Singh (PW-2), and it is not being

reproduced. He stated in his cross-examination that he had prepared the spot map. He admitted that he had not called any witness on the spot. He had not taken the photographs of the accused, the vehicle and the liquor. He denied that a false case was made against the accused.

21. The statements of these witnesses corroborated each other on material particulars. Nothing was suggested to them in their cross-examination that they had any motive to depose falsely against the accused. The accused has also not claimed in the statements recorded under Section 313 Cr.P.C that they had any enmity with the police, which would have led the police to falsely implicate them. It was laid down by the Hon'ble Supreme Court in *Sathyan v. State of Kerala*, (2023) 13 SCC 767: 2023 SCC OnLine SC 986 that the testimonies of the police officials could not be doubted because they were police officials. It was observed at page 775:

22. Conviction being based solely on the evidence of police officials is no longer an issue on which the jury is out. In other words, the law is well settled that if the evidence of such a police officer is found to be reliable and trustworthy, then basing the conviction thereupon cannot be questioned, and the same shall stand on firm ground. This Court in *Pramod Kumar v. State (NCT of Delhi)* [*Pramod Kumar v. State (NCT of Delhi)*, (2013) 6 SCC 588: (2014) 1 SCC (Cri) 434]: (SCC p. 593, para 13)

“13. This Court, after referring to *State of U.P. v. Anil Singh* [*State of U.P. v. Anil Singh*, 1988 Supp SCC 686: 1989 SCC (Cri) 48], *State (NCT of Delhi) v. Sunil* [*State (NCT of Delhi) v. Sunil*, (2001) 1 SCC 652: 2001 SCC (Cri) 248] and *Ramjee Rai v. State of Bihar* [*Ramjee Rai v. State of Bihar*, (2006) 13 SCC 229 : (2007) 2 SCC (Cri) 626] has laid down recently in *Kashmiri Lal v. State of Haryana* [*Kashmiri Lal v. State of Haryana*, (2013) 6 SCC 595 : (2014) 1 SCC (Cri) 441] that there is no absolute command of law that the police officers cannot be cited as witnesses and their testimony should always be treated with suspicion. Ordinarily, the public at large show their disinclination to come forward to become witnesses. If the testimony of the police officer is found to be reliable and trustworthy, the court can definitely act upon the same. If, in the course of scrutinising the evidence, the court finds the evidence of the police officer as unreliable and untrustworthy, the court may disbelieve him, but it should not do so solely on the presumption that a witness from the Department of Police should be viewed with distrust. This is also based on the principle that the quality of the evidence outweighs the quantity of evidence.”

23. Referring to *State (NCT of Delhi) v. Sunil* [*State (NCT of Delhi) v. Sunil*, (2001) 1 SCC 652: 2001 SCC (Cri) 248], in *Kulwinder Singh v. State of Punjab* [*Kulwinder Singh v. State of Punjab*, (2015) 6 SCC 674: (2015) 3 SCC (Cri) 345] this Court held that: (SCC p. 683, para 23)

“23. ... That apart, the case of the prosecution cannot be rejected solely on the ground that independent witnesses have not been examined when, on the perusal of the evidence on record, the Court finds that the case put forth by the prosecution is trustworthy. When the evidence of the official witnesses is trustworthy and credible, there is no reason not to rest the conviction on the basis of their evidence.”

24. We must note that in the former it was observed [*State (NCT of Delhi) v. Sunil*, (2001) 1 SCC 652: 2001 SCC

(Cri) 248]: (*Sunil case [State (NCT of Delhi) v. Sunil, (2001) 1 SCC 652: 2001 SCC (Cri) 248]*, SCC p. 662, para 21)

“21. ... At any rate, the court cannot start with the presumption that the police records are untrustworthy. As a proposition of law, the presumption should be the other way around. That official acts of the police have been regularly performed is a wise principle of presumption and recognised even by the legislature. ... If the court has any good reason to suspect the truthfulness of such records of the police, the court could certainly take into account the fact that no other independent person was present at the time of recovery. But it is not a legally approvable procedure to presume the police action as unreliable to start with, nor to jettison such action merely for the reason that police did not collect signatures of independent persons in the documents made contemporaneous with such actions.”

25. Recently, this Court in *Mohd. Naushad v. State (NCT of Delhi)* [*Mohd. Naushad v. State (NCT of Delhi)*, (2024) 12 SCC 494: 2023 SCC OnLine SC 784] had observed that the testimonies of police witnesses, as well as pointing out memos, do not stand vitiated due to the absence of independent witnesses.

22. It was submitted that the police had not joined any independent witnesses, which made the prosecution's case highly suspect. This submission is only stated to be rejected. It was rightly held by the learned Courts below that the police had made a chance recovery. There is nothing on record to show that the police had any prior information regarding the transportation of the liquor. Therefore, they could not have joined any independent witness before the search. The police accidentally recovered the liquor

when they became suspicious of the conduct of the accused. It was held by this Court in *Kehar Singh v. State of H.P.*, 2024 SCC OnLine HP 2825, that the prosecution's case cannot be doubted because of the non-association of independent witnesses. It was observed: -

16. As regards non-association of the independent witnesses, it is now well settled that non-association of the independent witnesses or non-support of the prosecution version by independent witnesses itself is not a ground for acquittal of the Appellants/accused. It is also well-settled that the testimonies of the official witnesses, including police officials, carry the same evidentiary value as the testimony of any other person. The only difference is that the Court has to be most circumspect while appreciating the evidence of the official witnesses to rule out the possibility of false implication of the accused, especially when such a plea is specifically raised by the defence. Therefore, while scrutinising the evidence of the official witnesses, in cases where independent witnesses are not associated, contradictions and inconsistencies in the testimonies of such witnesses are required to be taken into account and given due weightage unless satisfactorily explained. However, the contradiction must be a material and not trivial one, which alone would assume significance.

17. Evidently, this is a case of chance recovery; therefore, the police party was under no obligation to join independent witnesses while going on patrolling duty, and the association of any person after effecting the recovery would be meaningless.

Xxxx

19. A similar reiteration of law can be found in the judgment rendered by the learned Single Judge of this Court in *Avtar @ Tarri v. State of H.P.*, (2022) Supreme HP 345, wherein it was observed as under: —

“24. As regards the second leg of the argument raised by learned counsel for the appellant, it cannot be said to be of much relevance in the given facts of the case. The fact situation was that the police party had laid the ‘nakka’ and immediately thereafter had spotted the appellant at some distance, who got perplexed and started walking back. The conduct of the appellant was sufficient to raise suspicion in the minds of police officials. At that stage, had the appellant not been apprehended immediately, the police could have lost the opportunity to recover the contraband. Looking from another angle, the relevance of independent witnesses could be there when such witnesses were immediately available or had already been associated at the place of ‘nakka’. These, however, are not mandatory conditions and will always depend on the fact situation of each and every case. The reason is that once the person is apprehended and is with the police, a subsequent association of independent witnesses may not be of much help. In such events, the manipulation, if any, cannot be ruled out.”

Xxxx

22. A similar reiteration of law can be found in a very recent judgment of the Coordinate Bench of this Court in *Cr. A. No. 202 of 2020, titled Dillo Begum v. State of H.P., decided on 27.03.2024.*”

23. HHC Ramesh Kumar (PW-1) stated in his cross-examination that each carton was sealed with a seal ‘A’. It was submitted that this admission makes the prosecution's case suspect because the spot witnesses categorically stated that the cartons were not sealed on the spot, and the cartons produced before the Court were also not sealed. This submission will not help the accused. Learned Trial Court had rightly pointed out that

the statements of the witnesses were recorded about two years after the incident, and the contradictions were bound to come with the passage of time. Hon'ble Supreme Court held in *Rajan v. State of Haryana, 2025 SCC OnLine SC 1952*, that the discrepancies in the statements of the witnesses are not sufficient to discard the prosecution case unless they shake the core of the testimonies. It was observed: -

“32. The appreciation of ocular evidence is a hard task. There is no fixed or straitjacket formula for the appreciation of the ocular evidence. The judicially evolved principles for the appreciation of ocular evidence in a criminal case can be enumerated as follows:

*“I. While appreciating the evidence of a witness, the approach must be whether the evidence of the witness, read as a whole, appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the Court to scrutinise the evidence more particularly, keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief.*

*II. If the Court before whom the witness gives evidence had the opportunity to form the opinion about the general tenor of evidence given by the witness, the appellate court which had not this benefit will have to attach due weight to the appreciation of evidence by the trial court and unless there are reasons weighty and formidable it would not be proper to reject the evidence on the ground of minor variations or infirmities in the matter of trivial details.*

*III. When an eye-witness is examined at length, it is quite possible for him to make some discrepancies. But courts should bear in mind that it is only when discrepancies in the evidence of a witness are so incompatible with the credibility of his version that the court is justified in jettisoning his evidence.*

*IV. Minor discrepancies on trivial matters not touching the core of the case, a hyper-technical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical error committed by the investigating officer, not going to the root of the matter, would not ordinarily permit rejection of the evidence as a whole.*

*V. Too serious a view to be adopted on mere variations falling in the narration of an incident (either as between the evidence of two witnesses or as between two statements of the same witness) is an unrealistic approach for judicial scrutiny.*

*VI. By and large, a witness cannot be expected to possess a photographic memory and to recall the details of an incident. It is not as if a videotape is replayed on the mental screen.*

*VII. Ordinarily, it so happens that a witness is overtaken by events. The witness could not have anticipated the occurrence, which so often has an element of surprise. The mental faculties, therefore, cannot be expected to be attuned to absorb the details.*

*VIII. The powers of observation differ from person to person. What one may notice, another may not. An object or movement might emboss its image on one person's mind, whereas it might go unnoticed on the part of another.*

*IX. By and large, people cannot accurately recall a conversation and reproduce the very words used by them or heard by them. They can only recall the main purport of the conversation. It is unrealistic to expect a witness to be a human tape recorder.*

X. In regard to the exact time of an incident, or the time duration of an occurrence, usually, people make their estimates by guesswork on the spur of the moment at the time of interrogation. And one cannot expect people to make very precise or reliable estimates in such matters. Again, it depends on the time sense of individuals, which varies from person to person.

XI. Ordinarily, a witness cannot be expected to recall accurately the sequence of events that take place in rapid succession or in a short time span. A witness is liable to get confused or mixed up when interrogated later on.

XII. A witness, though wholly truthful, is liable to be overawed by the court atmosphere and the piercing cross-examination by counsel and, out of nervousness, mix up facts, get confused regarding the sequence of events, or fill in details from imagination on the spur of the moment. The subconscious mind of the witness sometimes operates on account of the fear of looking foolish or being disbelieved, though the witness is giving a truthful and honest account of the occurrence witnessed by him.

XIII. A former statement, though seemingly inconsistent with the evidence, need not necessarily be sufficient to amount to a contradiction. Unless the former statement has the potency to discredit the latter statement, even if the latter statement is at variance with the former to some extent, it would not be helpful to contradict that witness.”  
[See *Bharwada Bhoginbhai Hirjibhai v. State of Gujarat* (1983) 3 SCC 217: 1983 Cri LJ 1096: (AIR 1983 SC 753) *Leela Ram v. State of Haryana* (1999) 9 SCC 525: AIR 1999 SC 3717 and *Tahsildar Singh v. State of UP* (AIR 1959 SC 1012)]”

24. It was laid down by the Hon’ble Supreme Court in *Karan Singh v. State of U.P.*, (2022) 6 SCC 52: (2022) 2 SCC (Cri) 479: 2022 SCC OnLine SC 253 that the Court has to examine the evidence of the witnesses to find out whether it has a ring of truth or not. The

Court should not give undue importance to omissions, contradictions and discrepancies which do not go to the heart of the matter. It was observed at page 60: –

“38. From the evidence of Mahender Singh, PW 4, it appears that no specific question was put to him as to whether the appellant was present at the place of occurrence or not. This Court in *Rohtash Kumar v. State of Haryana* [*Rohtash Kumar v. State of Haryana*, (2013) 14 SCC 434: (2014) 4 SCC (Cri) 238] held: (SCC p. 446, para 24)

“24. ... The court has to examine whether the evidence read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the court to scrutinise the evidence more, particularly keeping in view the deficiencies, drawbacks, and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witnesses and whether the earlier evaluation of the evidence is shaken, as to render it unworthy of belief. Thus, the court is not supposed to give undue importance to omissions, contradictions and discrepancies which do not go to the heart of the matter and shake the basic version of the prosecution witness.”

39. Referring to *Narayan Chetanram Chaudhary v. State of Maharashtra* [*Narayan Chetanram Chaudhary v. State of Maharashtra*, (2000) 8 SCC 457: 2000 SCC (Cri) 1546], Mr Tyagi argued that minor discrepancies caused by lapses in memory were acceptable, contradictions were not. In this case, there was no contradiction, only minor discrepancies.

40. In *Kuriya v. State of Rajasthan* [*Kuriya v. State of Rajasthan*, (2012) 10 SCC 433: (2013) 1 SCC (Cri) 202], this Court held: (SCC pp. 447-48, paras 30-32)

“30. This Court has repeatedly taken the view that the discrepancies or improvements which do not materially affect the case of the prosecution and are insignificant

cannot be made the basis for doubting the case of the prosecution. The courts may not concentrate too much on such discrepancies or improvements. The purpose is to primarily and clearly sift the chaff from the grain and find out the truth from the testimony of the witnesses. Where it does not affect the core of the prosecution case, such a discrepancy should not be attached undue significance. The normal course of human conduct would be that while narrating a particular incident, there may occur minor discrepancies. Such discrepancies may even, in law, render credentials to the depositions. The improvements or variations must essentially relate to the material particulars of the prosecution case. The alleged improvements and variations must be shown with respect to the material particulars of the case and the occurrence. Every such improvement, not directly related to the occurrence, is not a ground to doubt the testimony of a witness. The credibility of a definite circumstance of the prosecution case cannot be weakened with reference to such minor or insignificant improvements. Reference in this regard can be made to the judgments of this Court in *Kathi Bharat Vajsur v. State of Gujarat* [*Kathi Bharat Vajsur v. State of Gujarat*, (2012) 5 SCC 724 : (2012) 2 SCC (Cri) 740], *Narayan Chetanram Chaudhary v. State of Maharashtra* [*Narayan Chetanram Chaudhary v. State of Maharashtra*, (2000) 8 SCC 457: 2000 SCC (Cri) 1546], *Gura Singh v. State of Rajasthan* [*Gura Singh v. State of Rajasthan*, (2001) 2 SCC 205: 2001 SCC (Cri) 323] and *Sukhchain Singh v. State of Haryana* [*Sukhchain Singh v. State of Haryana*, (2002) 5 SCC 100: 2002 SCC (Cri) 961].

31. What is to be seen next is whether the version presented in the Court was substantially similar to what was said during the investigation. It is only when exaggeration fundamentally changes the nature of the case that the Court has to consider whether the witness was stating the truth or not. [Ref. *Sunil Kumar v. State (NCT of Delhi)* [*Sunil Kumar v. State (NCT of Delhi)*, (2003) 11 SCC 367: 2004 SCC (Cri) 1055]].

32. These are variations that would not amount to any serious consequences. The Court has to accept the normal conduct of a person. The witness who is watching the murder of a person being brutally beaten by 15 people can hardly be expected to state a minute-by-minute description of the event. Everybody, and more particularly a person who is known to or is related to the deceased, would give all his attention to take steps to prevent the assault on the victim and then to make every effort to provide them with medical aid and inform the police. The statements that are recorded immediately upon the incident would have to be given a little leeway with regard to the statements being made and recorded with utmost exactitude. It is a settled principle of law that every improvement or variation cannot be treated as an attempt to falsely implicate the accused by the witness. The approach of the court has to be reasonable and practicable. Reference in this regard can be made to *Ashok Kumar v. State of Haryana* [*Ashok Kumar v. State of Haryana*, (2010) 12 SCC 350: (2011) 1 SCC (Cri) 266] and *Shivlal v. State of Chhattisgarh* [*Shivlal v. State of Chhattisgarh*, (2011) 9 SCC 561: (2011) 3 SCC (Cri) 777].”

41. In *Shyamal Ghosh v. State of W.B.* [*Shyamal Ghosh v. State of W.B.*, (2012) 7 SCC 646: (2012) 3 SCC (Cri) 685], this Court held: (SCC pp. 666-67, paras 46 & 49)

“46. Then, it was argued that there are certain discrepancies and contradictions in the statements of the prosecution witnesses inasmuch as these witnesses have given different timings as to when they had seen the scuffling and strangulation of the deceased by the accused. ... Undoubtedly, some minor discrepancies or variations are traceable in the statements of these witnesses. But what the Court has to see is whether these variations are material and affect the case of the prosecution substantially. Every variation may not be enough to adversely affect the case of the prosecution.

\*\*\*

49. It is a settled principle of law that the court should examine the statement of a witness in its entirety and read the said statement along with the statements of other witnesses in order to arrive at a rational conclusion. No statement of a witness can be read in part and/or in isolation. We are unable to see any material or serious contradiction in the statement of these witnesses which may give any advantage to the accused.”

42. In *Rohtash Kumar v. State of Haryana* [*Rohtash Kumar v. State of Haryana*, (2013) 14 SCC 434: (2014) 4 SCC (Cri) 238], this Court held: (SCC p. 446, para 24)

“24. ... The court has to examine whether the evidence read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the court to scrutinise the evidence more, particularly keeping in view the deficiencies, drawbacks, and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witnesses and whether the earlier evaluation of the evidence is shaken, as to render it unworthy of belief. Thus, the court is not supposed to give undue importance to omissions, contradictions and discrepancies which do not go to the heart of the matter and shake the basic version of the prosecution witness.”

25. Similar is the judgment in *Anuj Singh v. State of Bihar*, 2022 SCC OnLine SC 497: AIR 2022 SC 2817, wherein it was observed:

“17. It is not disputed that there are minor contradictions with respect to the time of the occurrence or injuries attributed on hand or foot, but the constant narrative of the witnesses is that the appellants were present at the place of occurrence, armed with guns, and they caused the injury on informant PW-6. However, the testimony of a witness in a criminal trial cannot be discarded merely because of minor contradictions or omissions, as observed by this court in *Narayan Chetanram Chaudhary & Anr. Vs. State of*

*Maharashtra, 2000 8 SCC 457*. This Court, while considering the issue of contradictions in the testimony while appreciating the evidence in a criminal trial, held that only contradictions in material particulars and not minor contradictions can be grounds to discredit the testimony of the witnesses. The relevant portion of para 42 of the judgment reads as follows:

"42. Only such omissions which amount to a contradiction in material particulars can be used to discredit the testimony of the witness. The omission in the police statement by itself would not necessarily render the testimony of the witness unreliable. When the version given by the witness in the court is different in material particulars from that disclosed in his earlier statements, the case of the prosecution becomes doubtful and not otherwise. Minor contradictions are bound to appear in the statements of truthful witnesses as memory sometimes plays false, and the sense of observation differs from person to person. The omissions in the earlier statement, if found to be of trivial details, as in the present case, the same would not cause any dent in the testimony of PW 2. Even if there is a contradiction of a statement of a witness on any material point, that is no ground to reject the whole of the testimony of such witness."

26. Therefore, in view of the binding precedents of the Hon'ble Supreme Court, the statements of the witnesses cannot be discarded due to omissions, contradictions, or discrepancies. The Court must consider whether the discrepancies negatively affect the prosecution's case and whether they pertain to the core of the case rather than the details.

27. In the present case, the statements were recorded two years after the incident, and a person can forget the detail with time, and the prosecution's case cannot be discarded merely because HHC Ramesh Kumar (PW-1) stated that the cartons were sealed with seal 'A'.

28. SI Sanjay Kumar (PW-8) admitted in his cross-examination that Constable Rajesh Kumar (PW-3), who had carried the rukka, did not return to the spot and met him later at Police Post Fagu. It was submitted that this admission in the cross-examination makes the investigation suspect. This submission cannot be accepted. There is no requirement of law that the person carrying the rukka must meet the investigating officer on the spot. If the investigation had been completed on the spot, there was no prohibition for the investigating officer to visit the Police Station. Therefore, the handing over of the Rukka at the Police Station is quite acceptable.

29. It was submitted that the seal was not produced before the Court, and the non-production of the seal is fatal to the prosecution's case. This submission cannot be accepted. It was laid down by the Hon'ble Supreme Court in *Varinder Kumar Versus State*

*of H.P. 2019 (3) SCALE 50* that failure to produce the seal in the court is not fatal. It was observed: -

“6. We have considered the respective submissions. PW10 is stated to have received secret information at 2.45 P.M. on 31.03.1995. He immediately reduced it into writing and sent the same to PW8, Shri Jaipal Singh, Dy.S.P., C.I.D., Shimla. At 3.05 P.M., PW7, Head Constable Surender Kumar, stopped PW5, Naresh Kumar and another independent witness, Jeevan Kumar, travelling together, whereafter the appellant was apprehended at 3.30 P.M. with two Gunny Bags on his scooter, which contained varying quantities of ‘charas’. PW8, Shri Jaipal Singh, Dy.S.P., C.I.D., Shimla, who had arrived by then, gave notice to the appellant and obtained his consent for carrying out the search. Two samples of 25 gms each were taken from the two Gunny Bags and sealed with the seal ‘S’, and given to PW5. PW2, Jaswinder Singh, the Malkhana Head Constable, resealed it with the seal ‘P’. The conclusion of the Trial Court that the seal had not been produced in the Court is therefore perverse in view of the two specimen seal impressions having been marked as Exhibits PH and PK. It is not the case of the appellant that the seals were found tampered with in any manner.”

30. In the present case, the sample seal (Ext.PW-8/G) was produced before the Court, and the Court had the seal impression on the sample seal to compare the seal, and the non-production of the seal would not be material in the present case.

31. It was submitted that only twenty bottles were sent for analysis, and it was not proved that all the bottles contained in the liquor in them. This submission will not help the accused. It was held by the Hon’ble Supreme Court in *Vijendrajit Ayodhya Prasad*

*Goel v. State of Bombay, (1953) 1 SCC 434*, that even if one bottle is sent for analysis, the same is sufficient to conclude that all the bottles and drums contained liquor in them. It was observed:

5. Mr Umrigar next contended that only one bottle out of the articles recovered at the raid was sent for analysis and that it was not proved that all the bottles and the drums that were recovered from the godown contained rectified spirit. He said these might well have contained phenyle, the manufacture of which the company admittedly was carrying on in that godown. This argument cannot be seriously considered. It was wholly unnecessary to send all the bottles recovered by the police in the presence of panches, and which contained the same stuff, for analysis. This argument is therefore rejected.

32. Even otherwise, it was rightly pointed out by the learned Courts below that possession of twenty bottles without a valid permit was still an offence, and the accused cannot derive any advantage from the fact that only twenty bottles were sent for analysis. Hence, the judgments in *Sukh Dev* (supra) and *Anil* (supra) will not help the accused.

33. Thus, the learned Trial Court had rightly convicted the accused of the commission of offences punishable under Section 61 (1) (a) of the Punjab Excise Act, 1914, as applicable to the State of HP.

34. Learned Trial Court had sentenced the accused to undergo simple imprisonment for six months. Considering that the

offences under the Excise Act adversely affects the public exchequer, the sentence of six months is not excessive.

35. No other point was urged.

36. In view of the above, the present petition fails, and the same is dismissed. The pending application(s), if any, also stand disposed of.

**Rakesh Kainthla)**  
**Judge**

**30<sup>th</sup> June, 2026**  
*(ravinder)*