

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Revision No.777 of 2024

Date of Decision: 21.08.2026

Smt. Champa Devi

.....Petitioner

Versus

Sh. Joginder Singh and Anr.

.....Respondents

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?

For the Petitioner: Ms. Shikha Chauhan, Legal Aid Counsel.

For the Respondents: Mr. Dixit Sahotra, Advocate, for respondent No.1.

Mr. Vishal Panwar, Additional Advocate General
and Mr. Ravi Chauhan, Deputy Advocate General,
for respondent No.2/State.

Sandeep Sharma, J. *(Oral)*

By way of instant petition filed uunder Sections 438(1) and 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (in short the 'BNSS'), challenge has been laid to judgment dated 8.7.2024 passed by the learned Additional Sessions Judge, Chamba, District Chamba, Himachal Pradesh, in Criminal Appeal No. 65/2023 titled as Champa Devi v. Joginder Singh & Anr., affirming judgment of acquittal dated 30.10.2021 passed by the learned Judicial Magistrate First Class, Chamba in Criminal Case No. 119/2014 titled as State of H.P. vs. Joginder Singh, whereby respondent No.1/accused, Joginder (hereinafter referred to as the 'accused'), came to

be acquitted of charges framed against him under Sections 354, 323 and 506 of Indian Penal Code.

2. Quintessential facts, as emerge from the pleadings as well as other material adduced on record by the respective parties are that victim/prosecutrix Smt. Champa Devi (PW-1) got her statement recorded under Section 154 Cr.P.C. at Police Station, Kihar, District Chamba on 3.4.2014, stating therein that she is a housewife and her husband is a Contractor and she has two sons. She alleged that on 2.4.2014, when her husband had gone for his personal work at Salooni, at about 4:30 PM, she went towards cowshed adjoining to her house to feed grass to the cattle. When she reached near the door, accused suddenly came there, caught hold of her hands and forcibly took her inside the cowshed. Complainant alleged that accused started behaving indecently and pressed her breasts with both hands. She alleged that though she attempted to raise hue and cries, but accused gagged her mouth and threatened her that in case she disclosed such incident to anyone, she would be killed. She also alleged that at the same time when her husband was calling her, accused fled away from the spot. She alleged that accused used to keep bad eye on her. She also alleged that incident was witnessed by one Sh. Dogru Ram (PW-4). She stated that report could not be lodged on the day of incident as police station was quite far away. In the aforesaid background, FIR bearing No.

30/2014 dated 3.4.2014 under Sections 354, 323 and 506 IPC came to be lodged against the accused. Police also got victim/prosecutrix medically examined at CHC Kihar, where she was attended upon by Dr. Amit Banyal, who issued MLC Ext.PW-5/B, stating therein that he did not find any abrasion, bruise or scratch marks upon the person of the complainant.

3. After completion of investigation, police presented challan in the court of learned Judicial Magistrate First Class Chamba, District Chamba, Himachal Pradesh (in short the “trial Court”), which on being satisfied that prima facie case under Sections 354, 323 and 506 IPC is made out against the accused, framed charges against him under aforesaid provisions of law, to which he pleaded not guilty and claimed trial.

4. Prosecution, in order to prove its case, examined as many as six witnesses. Accused in his statement recorded under Section 313 Cr.P.C. denied the case of prosecution in toto and claimed himself to be innocent. However, despite sufficient opportunity, he failed to lead any evidence in defence.

5. Learned trial Court, on the basis of evidence, be it ocular and documentary, adduced on record, vide judgment dated 30.10.2021, acquitted the accused of charges framed against him under the aforesaid provisions of law.

6. Being aggrieved and dissatisfied with aforesaid judgment of acquittal recorded by the learned trial Court, complainant approached the Court of learned Additional Sessions Judge, Chamba, which also came to be dismissed vide judgment dated 8.7.2024. In the aforesaid background, complainant/victim-prosecutrix/petitioner has approached this Court in instant proceedings, praying therein for conviction of the accused after setting aside judgments of acquittal passed by both the Courts below.

7. Precisely the case of the petitioner, as highlighted and canvassed by Ms. Shikha Chauhan, learned Legal Aid Counsel representing her, is that both the Courts below have failed to appreciate the evidence in its right perspective, as a result of which, findings to the detriment of complainant, who has been wronged by accused, have come to the fore. She states that though husband of the petitioner, while deposing as PW-2, corroborated the version put forth by the complainant, but even otherwise also, by now, it is well settled that statement of victim/prosecutrix in such like cases is sufficient to conclude the guilt of the accused. She submits that bare perusal of statement of victim/prosecutrix recorded before the Court below clearly suggests that on the day of alleged incident, accused had attempted to outrage the modesty of victim/prosecutrix and as such, there was no occasion for the Courts below to acquit the accused.

8. To the contrary, Mr. Vishal Panwar, learned Additional Advocate General representing respondent-State and Mr. Dixit Sahotra, learned counsel representing the accused, supported the impugned judgment of acquittal recorded by the Court below. They submit that while exercising power under Sections 438 and 442 of BNSS, this Court has very limited jurisdiction to re-appreciate the evidence. They submit that bare perusal of statement made by complainant reveals that there are lot of contradictions and inconsistencies and as such, same have been rightly not taken into consideration by the Courts below while ascertaining the guilt of the petitioner under relevant provisions of law. They state that though victim/prosecutrix as well as her husband attempted to set up a case before the learned trial Court that in the alleged incident, victim/prosecutrix suffered injuries, but doctor, who attended upon her at the time of medical examination, has categorically stated that no injury of any kind was witnessed on the person of the complainant. They further state that though version of victim/prosecutrix can be relied solely for purpose of conviction of accused in such like cases, but since very statement of victim/prosecutrix has become doubtful on account of MLC report given by the doctor attending upon her coupled with the fact that there are material contradictions in the statements of material prosecution witnesses and one of the independent witness has turned hostile, no

illegality can be said to have been committed by the learned courts below while passing impugned judgments of acquittal.

9. Having heard learned counsel for the parties and perused material available on record vis-a-vis reasoning assigned in impugned judgment by learned Additional Sessions Judge, affirming judgment of acquittal recorded by learned trial Court, this Court finds no illegality or infirmity in the same and as such, no interference is called for.

10. Having scanned entire evidence adduced on record, this Court is not persuaded to agree with Ms. Shikha Chauhan, learned Legal Aid Counsel that learned courts below have failed to appreciate evidence in its perspective, rather this Court finds that both the learned courts below have appreciated the evidence in their right perspective and there is no scope of interference.

11. In a nutshell, the case of the prosecution is that on 2.4.2014, when victim/prosecutrix went to her cowshed, accused reached at the spot, dragged the victim/prosecutrix inside the cowshed and attempted to outrage her modesty, as a result thereof, she sustained injuries. Complainant also alleged that accused extended threats not to disclose the incident to anyone. After lodging of FIR, police got statement of victim/prosecutrix recorded under Section 164 Cr.P.C. (Ext.PW-6/H). She was medically examined at PHC Kihar and MLC (Ext.PW-5/B) was

obtained. Perusal of MLC clearly reveals that doctor attending upon victim/prosecutrix did not find any abrasion, bruise or scratch marks upon the person of the complainant. Complainant, while examining herself as PW-1, deposed that on the date of alleged incident i.e. 2.4.2014, accused came near the cowshed, caught hold of her hands, took her inside the cowshed, pressed her breasts and she was threatened not to disclose incident to anyone. She deposed that when her husband returned and came towards cowshed, accused fled away from the spot. She got FIR (Ext.PW-1/A) registered and was got medically examined by the police. If the aforesaid version put forth by prosecutrix is perused juxtaposing her initial statement given to police under Section 154 Cr.P.C. and Section 164 Cr.P.C., there are contradictions with regard to presence of her husband on the spot. In the complaint on the basis of which FIR came to be lodged, she stated that while her husband was calling her, accused fled away from the spot, however, while deposing before the Court, she stated that when her husband returned and came towards cowshed, accused fled from the spot. Husband of the victim/prosecutrix appeared as PW-2 and deposed that when he reached near cowshed, accused came out from there and when he inquired from his wife, she narrated the incident. Both the witnesses categorically stated that in the alleged incident, victim/prosecutrix sustained injuries, however, such fact never came to be proved, rather MLC

adduced on record clearly establishes that no injury was sustained by victim/prosecutrix. Though MLC adduced on record showed that simple injuries were suffered by the complainant, but there is no description of the same, rather net result of MLC is that no abrasions or scratches were found on the person of the victim/prosecutrix. Victim/prosecutrix deposed that she suffered scratches on her chest and hands, and husband averred that she sustained scratches on her cheeks as well, however, such deposition of both witnesses is not corroborated by medical evidence adduced on record.

12. Though there is a delay of one day in reporting the matter to police, however, having taken note of distance between house of the complainant and police post coupled with the fact that complainant reported the matter to the police on the next day of occurrence, both the learned courts below have rightly not given much importance to delay in lodging FIR, rather proceeded to decide the case on the basis of other evidence adduced on record by prosecution. Perusal of MLC issued by Dr. Amit Banyal, who medically examined the complainant, reveals that on examination, neither external injury was found nor there was any abrasion or bruise upon the person of the complainant.

13. True, it is that, to prove case under Sections 354 and 323 IPC, statement of victim/prosecutrix is sufficient to conclude guilt of the

accused and even presence of injury on the person of the victim is also not necessary, rather in absence of same, accused can be convicted, but since in the instant case, both complainant and husband, while deposing before Court below as PW-1 and PW-2, categorically stated that after the incident, scratches appeared on her chest, hands and cheeks, coupled with the fact that doctor attending upon complainant did not find any injury on the person of the complainant, entire version put forth by victim/prosecutrix with regard to alleged incident, becomes highly doubtful.

14. Moreover, this Court finds that independent witness namely Shri Dogru Ram (PW4), turned hostile. Though Public Prosecutor cross-examined the aforesaid person, but nothing could be extracted, which could help or favour the prosecution.

15. PW-2 Shri Tilak Raj deposed that PW4 had seen the accused fleeing from the spot, however in the cross-examination of PW-1, she stated that she had not given statement to the effect that accused was seen by anyone on the spot, but simultaneously if her statement (Ext.PW-1/A) is seen, it was mentioned that PW4 had seen the accused running, as such, she did not stick to her stand regarding her statement so made in Ext.PW-1/A.

16. True, it is that testimony of the complainant does not require corroboration in such like offences, however the story would have been

different, had any witness taken a stand that incident was witnessed by someone.

17. Leaving everything aside, once the complainant herself took the stand that no one had seen the accused running from the spot, the testimony of PW-2 Tilak Raj is also doubtful.

18. Accused, in his statement recorded under Section 313 Cr.P.C., stated that he had some dispute with the husband of the complainant, therefore, false case was registered against him. Since the accused failed to lead any evidence, it can be said that he was unable to establish on record factum of animosity, if any, *inter-se* him and the complainant, but having taken note of material contradictions and infirmities in the statements of complainant as well as other material witnesses, coupled with the fact that sole independent witness Dogru Ram (PW4) turned hostile and injuries suffered by the complainant never came to be substantiated by medical evidence adduced on record by respective parties, no illegality can be said to have been committed by both the learned courts below while acquitting the accused of charges framed against him.

19. The Hon'ble Apex Court has repeatedly held that since the fundamental aspect of criminal jurisprudence rests upon the well established principle that "no man is guilty until proved so", utmost caution is required to be exercised in dealing with the situation where there

are multiple testimonies and equally large number of witnesses testifying before the Court. Most importantly, the Hon'ble Apex Court has held that there must be a string that should join the evidence of all the witnesses and thereby satisfying the test of consistency in evidence amongst all the witnesses. In nutshell, it can be said that evidence in criminal cases needs to be evaluated on touchstone of consistency. Reliance is placed on Judgment passed by the Hon'ble Apex Court in **C. Magesh and Ors. v. State of Karnataka** (2010) 5 SCC 645, wherein it has been held as under:-

"45. It may be mentioned herein that in criminal jurisprudence, evidence has to be evaluated on the touchstone of consistency. Needless to emphasise, consistency is the keyword for upholding the conviction of an accused. In this regard it is to be noted that this Court in the case titled Suraj Singh v. State of U.P., 2008 (11) SCR 286 has held:- (SCC p. 704, para 14)

"14. The evidence must be tested for its inherent consistency and the inherent probability of the story; consistency with the account of other witness is held to be creditworthy. The probative value of such evidence becomes eligible to be put into the scales for a cumulative evaluation."

46. In a criminal trial, evidence of the eye witness requires a careful assessment and must be evaluated for its creditability. Since the fundamental aspect of criminal jurisprudence rests upon the stated principle that "no man is guilty until proven so", hence utmost caution is required to be exercised in dealing with situations where there are multiple testimonies and equally large number of witnesses testifying before the court. There must be a string that should join the evidence of all the witnesses and thereby satisfying the test of consistency in evidence amongst all the witnesses."

20. Moreover, this Court has a very limited jurisdiction under 438 of BNSS, to re-appreciate the evidence, especially, in view of the concurrent findings of fact and law recorded by the courts below. In this regard,

reliance is placed upon the judgment passed by Hon'ble Apex Court in case **"State of Kerala Vs. Puttumana Illath Jathavedan Namboodiri"** (1999)

2 Supreme Court Cases 452, wherein it has been held as under:-

"In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying 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 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 re-appreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice."

21. Since after having carefully examined the evidence in the present case, this Court is unable to find any error of law as well as fact, if any, committed by the courts below while passing impugned judgments, there is no occasion, whatsoever, to exercise the revisional power.

22. True, it is that the Hon'ble Apex Court in **Krishnan and another Versus Krishnaveni and another, (1997) 4 Supreme Court Case 241**; has held that in case Court notices that there is a failure of justice or misuse of judicial mechanism or procedure, sentence or order is not correct, it is salutary duty of the High Court to prevent the abuse of

the process or miscarriage of justice or to correct irregularities/ incorrectness committed by inferior criminal court in its judicial process or illegality of sentence or order, but learned counsel representing the accused has failed to point out any material irregularity committed by the courts below while appreciating the evidence and as such, this Court sees no reason to interfere with the well reasoned judgments passed by the courts below.

23. Consequently, in view of the discussion made herein above as well as law laid down by the Hon'ble Apex Court, this Court sees no valid reason to interfere with the well reasoned judgments recorded by the courts below, which otherwise, appear to be based upon proper appreciation of evidence available on record and as such, same are upheld. Accordingly, the present criminal revision petition is dismissed being devoid of any merit. Pending applications, if any, also stand disposed of.

August 21, 2026

(manjit)

**(Sandeep Sharma),
Judge**