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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

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CRM-M-8510-2025 (O&M)
Date of decision: 15.02.2025

Devinder Kaur and another**...Petitioners**

Versus

State of Punjab and another**...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Gurcharan Dass, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. By way of filing the present petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*), the petitioners are challenging the order dated 05.12.2024, passed by the Court of learned Additional Sessions Judge, Ludhiana criminal revision petition bearing number CRR-890-2023, titled as ***Ashok Kumar vs. State of Punjab***, arising out of FIR No. 292, dated 23.10.2008, registered under Sections 420, 467, 468, 471, 120-B and 201 of IPC at Police Station Division No. 5 Ludhiana, whereby an application moved by the petitioner for making correction in the order dated 14.10.2024 was allowed.

2. Brief facts relevant for the purpose of disposal of this petition are that the present petitioners have lodged the aforementioned FIR. During the pendency of the trial, an application under Section 319 of the Code of Criminal Procedure (*for short 'the Code'*) had been moved by the present

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petitioners for summoning respondent No. 2 Ashok Kumar as an additional accused under Section 319 of the Code. The said application had been allowed, vide order dated 16.08.2023 passed by the Court of learned Judicial Magistrate First Class, Ludhiana. Respondent No. 2 filed the aforementioned revision petition challenging the above said order dated 16.08.2023. Learned Additional Sessions Judge, Ludhiana/learned revisional Court passed order dated 14.10.2024 observing that there was not an iota of evidence on record to prove that respondent No. 2 had committed any offence, so as to summon him as an additional accused to face trial along with co-accused. However, in the last paragraph No. 20 of the said order, the revision petition was ordered to be dismissed by making following observations:

“In view of the above discussion considering the totality of facts, no merit found in the impugned revision petition and accordingly the same is found to be devoid of any merit and stands dismissed. Trial court record along with copy of this order be returned to the concerned court. Revision file be consigned to the record room.”

3. Subsequently, respondent No. 2 filed an application for making correction in the order dated 14.10.2024, passed by the learned revisional Court, by submitting that in fact the revision petition had been allowed and it was also pronounced so and further that it was on account of some typographical mistake that in para No. 20 of the said order, it was mentioned that the revision petition was dismissed. Learned revisional Court, after considering the objection raised by the present petitioners and after hearing contentions raised by both the sides, allowed the said application, vide order dated 05.12.2024, by observing that in fact it was on account of a

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clerical/typographical mistake that the aforementioned revision petition had been shown to be dismissed, though in fact it was allowed. Requisite correction in the said order was directed to be made accordingly. The petitioners are dissatisfied with the order dated 05.12.2024 and have knocked the doors of this Court.

4. It is argued by learned counsel for the petitioners that the impugned order dated 05.12.2024 is not sustainable in the eyes of law as while passing the same, learned Additional Sessions Judge ignored the fact that once he had decided the revision petition by passing the order dated 14.10.2024, his Court has become *functus officio* and no interference could be made in the said order. It was wrongly observed that the fact that petition was shown to be dismissed due to some inadvertent clerical error and in fact it was allowed. It is submitted that learned revisional Court could not alter the judgment/final order once it had been signed and, therefore, it is urged that the impugned order be set aside, the petition be allowed and the revision petition, filed by respondent No. 2, be treated as 'dismissed' and not allowed. To fortify his arguments, learned counsel for the petitioners has relied upon the authority cited as ***Smt. Sooraj Devi vs. Pyare Lal and another : 1981 (1) SCC 500.***

5. I have heard learned counsel for the petitioners at considerable length and have also gone through the material placed on record.

6. Undoubtedly, Section 403 of BNSS (*which is pari materia with Section 362 of the Code*) mandates that no Court when it has signed its judgment or final order disposing of a case shall alter or review the same except to correct a clerical or arithmetical error since such Court becomes

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functus officio, the moment a final order disposing of a case is signed. A final order passed by a Court cannot be altered, except to the extent of correcting a clerical or arithmetical error and the ratio of law as laid down in the authority cited by learned counsel for the petitioners is also the same.

7. In the instant case, learned revisional Court, while disposing of the revision petition filed by respondent No. 2 by passing order dated 14.10.2024, had observed in para No. 17 that the police had conducted investigation on the allegations made in the complaint leading to lodging of the FIR and no evidence had come on record to show connivance of respondent No. 2 in committing subject offences. In para No. 18, it was observed that during investigation of the FIR, no evidence had been collected by the investigating agency qua forging signatures of five legal heirs of Ajit Singh or connivance on the part of respondent No. 2 with co-accused Gurbachan Singh to forge signatures on some affidavits. Then in **para No. 19**, it was observed that learned trial Court had placed reliance upon oral statement of PW-1, which was reiteration of the allegations made by her in the complaint, without there being anything on record to substantiate the allegations. In the concluding lines of this paragraph, it was observed as under :

“Thus there is not an iota of evidence on the record to conclude that revisionist Ashok Kumar prima facie has committed any offence to summon him to face the trial in the present FIR.”

8. On a bare reading of the aforementioned para Nos. 17 to 19, it is clear that while passing the order dated 14.10.2024, the learned revisional

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Court was of the view that the order summoning respondent No. 2 as an additional accused was not sustainable as there was insufficient evidence to issue process against him. However, in para No. 20 i.e. concluding paragraph of the order dated 14.10.2024, the petition had been ordered to be dismissed. When the respondent No. 2 filed an application before the learned revisional Court for making correction in the order dated 14.10.2024, learned revisional Court not only recoded the statements of the concerned Judgment Writer/Steno Typist, who had typed this order, but also of the Reader and the Public Prosecutor. It was stated by them that in fact the revision petition had been allowed on 14.10.2024 and it was only on account of some typographical mistake that the revision petition had been shown to be dismissed. Meaning thereby that when the impugned order was pronounced in Court then it was qua allowing of the petition. A reading of paragraph Nos. 17 to 10 of this order also shows that the Court was of the view that the order dated 14.10.2024 was not sustainable and was liable to be set aside. Accordingly, naturally, the petition before the learned revisional Court should have been allowed. Learned revisional Court, after considering all these facts, had passed the impugned order. I find no infirmity or illegality in the same. Accordingly, the present petition is dismissed.

15.02.2025

*Waseem Ansari***(MANISHA BATRA)**
JUDGE*Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*