

2025:PHHC:133020



240.

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

CRR-2336-2022 (O&M)

Date of decision: 23.09.2025

Suman

.... Petitioner

Versus

Parveen and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Ms. Gagandeep Kaur, Advocate, Legal Aid Counsel,
for the petitioner.

NAMIT KUMAR, J. (ORAL)

CRM-41941-2022

This is an application for condonation of delay of 84 days in filing the present revision petition.

For the reasons mentioned in the application, same is allowed and delay of 84 days in filing the present revision petition is condoned

CRR-2336-2022

1. The instant revision petition has been filed by the petitioner-complainant impugning the judgment dated 17.11.2015, passed by learned Judicial Magistrate Ist Class, Bhiwani, whereby respondent No.1-Parveen has been acquitted of the charges levelled against him, and the judgment dated 30.09.2019, passed by learned Additional Sessions Judge, Bhiwani, whereby the appeal preferred by the petitioner has been dismissed.

2. The investigation was set into motion on the complaint filed by the complainant-Suman wherein it was alleged that she filed a petition

under Section 12 of the Protection of Women from Domestic Violence Act, 2005, against respondent No.1-Parveen, which was decided by learned Judicial Magistrate Ist Class, Bhiwani, vide order dated 17.11.2010, whereby respondent No.1-Parveen was directed to pay an amount of Rs.3,000/- per month on account of maintenance allowance from the date of filing of the petition and he was further directed to provide a room to her to reside in the shared house. The said judgment was upheld by the learned Additional Sessions Judge, Bhiwani, in an appeal preferred by the respondent. It was further alleged in the complaint that the respondent failed to comply with the said directions and, therefore, action be taken against him. Consequently, FIR No.346, dated 14.09.2011, under Section 31 of the Protection of Women from Domestic Violence Act, 2005 (for short, 'the Act'), at Police Station Civil Lines, Bhiwani, was registered against the respondent.

3. After considering the whole matter, the respondent was acquitted by the Court of learned Judicial Magistrate Ist Class, Bhiwani, vide judgment dated 17.11.2015 and the relevant portion from the said judgment reads thus:-

“10. In the present case, accused Parveen has been implicated under section 31 of Protection of Women from Domestic Violence Act, 2005 which provides penalty for breach of Protection order by respondent. Protection orders have been contained in section 18 from Protection of Women from Domestic Violence Act, 2005.

11. The protection orders which may be passed are detailed under section 18 of the DV Act and violation, if any, thereof has been dealt with by Section 31 of the said Act. In the order

dated 17.11.2010 so passed by the then Ld. JMIC, Bhiwani, the accused was directed to pay an amount of Rs.3000/- per month to the complainant and was further directed to provide her a room to reside in the shared household. Now coming to the facts detailed in the complaint so filed by the complainant in the Court which has been proved on the file as Ex.PW2/A, a close scrutiny thereof reveals that there are no specific allegations against the accused as to how and in what manner he has violated the protection order passed in favour of the complainant rather the complainant has simply stated that the accused persons have breached the protection order and has not complied the same. From the perusal of Section 18 it is revealed that non payment of maintenance amount or non-providing of separate room to the petitioner does not come in the category breach of Protection order. Again there are no allegations against the accused that he by his any of the act and conduct caused any mental agony to the complainant and has thus made violation of the protection order. There is no mention in the complaint that the accused ever interfered in the life of the complainant by doing any act of domestic violence. So, the complaint filed by the complainant against the accused persons is a vague one as the same is silent on all the above mentioned points and general allegations have been levelled against the accused persons which does not satisfy the definition of breach of the protection order as mentioned in the DV Act.

12. In this way no breach of any protection order contained under section 18 of the Act has been made by the accused Parveen, hence no offence has been committed by the accused under section 31 of the Act, hence prosecution has miserably failed to prove its case against accused persons beyond reasonable shadow of doubt. Therefore, accused Parveen is hereby acquitted of the charges levelled against him. His bail, bonds/surety bonds stand discharged. File be consigned to the record-room, after due compliance.

Announced in open Court
Dated 17.11.2015

(Parveen Kumar)
Judicial Magistrate Ist Class
Bhiwani.”

The said judgment was challenged by the petitioner by filing an appeal before the learned Additional Sessions Judge, Bhiwani, which was

dismissed vide judgment dated 30.09.2019, and in the said judgment, it was held as under:-

“14. In view of the above discussion and after careful perusal of the case file, this court is of the considered opinion that the present appeal is totally devoid of merits. The learned trial court has rightly held that the violation of the Protection Order covered under Section 18 of the Protection of Women from Domestic Violence Act, 2005 has been made punishable under Section 31 of this Act. Even during the course of arguments, the learned counsel for the appellant/complainant could not show any law under which the order of maintenance and of residence in shared household can be held as the order passed under Section 18 of the Protection of Women from Domestic Violence Act, 2005. The residence orders can be passed under Section 19 of Protection of Women from Domestic Violence Act, 2005 and the monetary reliefs are covered under Section 20 of the Protection of Women from Domestic Violence Act, 2005.

15. From the bare perusal of Section 31 of the Protection of Women from Domestic Violence Act, 2005, the breach of protection order, final or interim, has only been made punishable. As there is no breach of any protection order in the present case hence, there arises no question of punishing the respondent/accused for commission of offence under Section 31 of Protection of Women from Domestic Violence Act, 2005.

16. By filing the present appeal, the intention of the appellant/complainant is only to harass the respondent/accused and with the same intention, she had moved the application under Section 156(3) Cr.P.C. for seeking action against the respondent/accused under Section 31 of the Protection of Women from Domestic Violence Act, 2005 and thus the appellant/complainant has rendered herself liable to exemplary costs, however, this court is restraining itself from imposing the exemplary costs on the appellant/complainant and the present appeal is ordered to be dismissed with token costs of ₹1100/- only. Trial court record, be returned with a copy of this judgment while appeal file be consigned to records after due compliance.

Pronounced in open Court
Dated 30.09.2019

(Jaibir Singh)
Addl. Sessions Judge,
Bhiwani
UID No.HR0137”

4. Aggrieved against the said judgments, the instant revision petition has been preferred by the petitioner.

5. The case of the petitioner is that despite the order dated 17.11.2010 directing the respondent to pay maintenance of ₹3,000/- per month and to provide a room in the shared household, the same was not complied with, resulting into registration of the FIR under Section 31 of the Act. The trial Court, after recording evidence, acquitted the respondent on the ground that non-payment of maintenance and non-providing of residence do not fall within the ambit of a protection order contemplated under Section 18 of the Act, and, therefore, the penal provision under Section 31 of the Act was not attracted. The appellate Court upheld the said findings and dismissed the appeal.

6. Upon consideration of the material on record, it is evident that Section 31 of the Act makes punishable only the breach of a "protection order" passed under Section 18. Orders relating to residence (Section 19) and monetary relief (Section 20) are enforceable through execution or other legal remedies, but their non-compliance does not amount to an offence under Section 31 of the Act.

7. Revisional jurisdiction is a supervisory jurisdiction meant to correct manifest errors apparent on the face of the record. This Court while exercising its revisional powers has very limited jurisdiction, which can only be exercised, (i) when the Courts below have acted beyond jurisdictional vested in them, or (ii) have not exercised the same diligently, and (iii) have exercised illegally. Moreover, it is a settled proposition that in

revision against an order of acquittal, the High Court does not act as a second Court of appeal. Interference is permissible only if the findings recorded by the Courts below are perverse, wholly unreasonable, based on misreading of evidence, or where material evidence has been ignored. Mere possibility of a different view being taken on the same evidence is no ground to upset an acquittal in revision.

8. In the present case, both the trial Court and the appellate Court have concurrently recorded findings of acquittal after properly appreciating the facts and evidence. No manifest illegality or perversity has been pointed out so as to warrant interference. Unless it is demonstrated that such findings are patently illegal or grossly unjust, there is no scope for interference in revision. Under these circumstances, I do not find any error committed in considering the material on record and orders passed do not suffer from their legality and correctness and question of invoking revision jurisdictional does not arise.

9. Consequently, finding no merit in the revision petition, the same is hereby dismissed.

(NAMIT KUMAR)
JUDGE

September 23, 2025
sanjeev

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No