IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No. 383 of 2014
Reserved on: 7.10.2026
Date of Decision: 26.10.2026.

Dalumbi & another ...Petitioners

Versus

State of HP & ors. ...Respondents

Coram
Hon'ble Mr Justice Rakesh Kainthla, Judge.
Whether approved for reporting?[1] No.

For the Petitioners	:	Mr Pawan Gautam, Advocate.
For Respondent No.1/State	:	Mr Ajit Sharma, Deputy Advocate General.
For Respondents No.2 to 5	:	M/s Reeta Hingmang & Vishwakirti, Advocates.

Rakesh Kainthla, Judge

The present revision is directed against the judgment dated 26.8.2014, passed by learned Additional Sessions Judge-II, Una, District Una (learned Appellate Court), vide which the judgment dated 1.7.2011, passed by learned Chief Judicial Magistrate, Una, District Una, H.P. (learned Trial Court), was upheld. (*The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience)*.

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

2. Briefly stated, the facts giving rise to the present revision are that a challan was presented before the learned Trial Court against the accused for the commission of offences punishable under Sections 323, 324, and 504 read with Section 34 of the Indian Penal Code (IPC). It was asserted that the informant, Dalumbi Devi (PW-2), and her daughter, Pooja (PW-1), were returning to their home from their field on 20.6.2007 at about 7:00 PM. Satpal (accused) and his family members Reena, Rekha, Raj Kumari, and Jeevan were cultivating maize crop in their field. Satpal and Jeevan started uprooting the crop planted by the informant. Pooja went to them to inquire as to why they were doing so. Satpal replied that he would do whatever he wanted to. Reena and Rekha came to the informant's field and started beating the informant and Pooja. Satpal inflicted a blow by means of a spade (*kassi*) to Pooja. Tripta Devi (PW-3) and Charan Dass rescued the victim from the accused. The injured were taken to the hospital. Information was given to the police, and an entry (Ext. PW-7/A) was recorded in the Police Station. HHC Gopal Dass (PW8) and Constable Chaman Singh were sent to the hospital for verification. HHC Gopal Dass recorded the informant's statement (Ext. PW-2/A) and sent it to the police

station, where FIR was registered. HHC Gopal Dass (PW-8) visited the spot and prepared the site plan (Ext. PW-8/B). Satpal produced one spade (Ext. P-1), which was seized vide memo Ext. PW-2/B. HHC Gopal Dass filed an application for conducting the medical examination of the injured. Dr S.K. Bansal (PW-6) examined Pooja and found that she had sustained injuries on her forehead and head. He advised an X-ray, but no fracture was detected. He issued MLC (Ext. PW-6/A) stating that the injuries could be caused by means of the edge of the spade. Statements of witnesses were recorded as per their version, and after completion of the investigation, the challan was prepared and presented before the learned Trial Court.

3. The learned Trial Court found sufficient reasons to summon the accused. When the accused appeared, they were charged with the commission of offences punishable under Sections 323 and 324 read with Section 34 of the IPC, to which they pleaded not guilty and claimed to be tried.

4. The prosecution examined eight witnesses to prove its case. Pooja (PW-1) is the victim. The informant Dalumbi Devi (PW-2) and Tripta Devi (PW-3) witnessed the incident. Constable Chanan Singh (PW-4) and Swaran Singh (PW-5)

witnessed the recoveries. Dr S.K. Bansal (PW-6) conducted the medical examination of the victim. HHC Paramjit Singh (PW-7) proved the entry in the daily diary. HHC Gopal Dass (PW-8) investigated the matter.

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

6. The learned Trial Court held that the statements of prosecution witnesses materially contradicted each other and could not be relied upon. Tripta Devi (PW-3) could not be called to be an eyewitness. Hence, the learned Trial Court acquitted the accused.

7. Being aggrieved by the judgment passed by the learned Trial Court, the victim filed an appeal, which was decided by the learned Additional Sessions Judge-II, Una, District Una (learned Appellate Court). The learned Appellate Court concurred with the findings recorded by the learned Trial Court that the statements of witnesses contradicted each other. Civil litigation was going on between the parties, and the testimonies of the witnesses were required to be seen with due

care and caution. The learned Trial Court had taken a reasonable view that could have been taken based on the evidence placed before it, and no interference was required with it.

8. Being aggrieved by the judgments passed by the learned Courts below, the victim has filed the present revision, asserting that the learned Courts below erred in rejecting the statements of the prosecution witnesses. The prosecution had proved its case beyond reasonable doubt by examining the witnesses. The testimonies of the witnesses were duly corroborated by the statements of the Medical Officer. Therefore, it was prayed that the present revision be allowed and the judgments passed by the learned Courts below be set aside.

9. I have heard Mr Pawan Gautam, learned counsel for the petitioner/informant, Mr Ajit Sharma, learned Deputy Advocate General for respondent No. 1/State and Ms Reeta Hingmang, learned counsel for respondents No. 2 to 5.

10. Mr Pawan Gautam, learned counsel for the petitioner/informant, submitted that the learned Courts below erred in acquitting the accused. The statements of prosecution witnesses corroborated each other. The medical evidence also corroborated the statements of the witnesses. The learned

Courts below erred in holding that the statements of the witnesses materially contradicted each other. Minor contradictions are bound to come with time and are no reason to discard the prosecution version. Therefore, he prayed that the present revision be allowed and the judgments passed by the learned Courts below be set aside.

11. Mr Ajit Sharma, learned Deputy Advocate General for respondent No. 1/State, submitted that the prosecution had succeeded in proving its case beyond reasonable doubt and the learned Courts below erred in acquitting the accused. Therefore, he prayed that the present revision be allowed and the judgments passed by the learned Courts below be set aside.

12. Ms Reeta Hingmang, learned counsel for respondents No. 2 to 5, submitted that there are material contradictions in the statements of the witnesses. The learned Courts below had rightly appreciated the evidence, and this Court should not reappreciate the evidence while deciding the revision. Hence, she prayed that the present revision be dismissed.

13. I have given considerable thought to the submissions made at the Bar and have gone through the records carefully.

14. It was laid down by the Hon'ble Supreme Court in ***Kuntegowda v. Thurubaiah, 2026 SCC OnLine SC 1485*** that a revisional court does not act as an appellate court and it can only determine the correctness, legality and propriety of the findings, sentence and order recorded by the lower court. It was observed:

> "**7.** Before parting, we would like to accentuate the revisional jurisdiction of the High Courts and the contours and inherent limits while exercising powers as a revisional authority. Section 397 of the Criminal Procedure Code, 1973 (now, Section 438 of Bharatiya Nagarik Suraksha Sanhita, 2023) encapsulates the power of High Courts and Sessions Courts to examine the correctness, legality or propriety of any order passed by an inferior criminal court. The said Section is extracted as hereunder:
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> > "**438. Calling for records to exercise powers of revision.**—(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying 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, and may, when calling, for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement that he be released on his own bond or bail bond pending the examination of the record.
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> > *Explanation.* —All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this subsection and of section 439.

(2) The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them."

Discretion in the exercise of revisional jurisdiction should be exercised within the four corners of this section whenever there has been miscarriage of justice. However, while exercising power under this section, the Court does not act as an appellate Court and therefore, while considering the legality, propriety or the correctness of a finding or a conclusion, the revisional court does not and should not dwell upon the facts and the evidence of the case as an appellate Court. The court, in revision, considers the material only to satisfy itself about the correctness, legality and propriety of the findings, sentence and order recorded by the lower court, and should refrain from substituting its conclusion on an elaborate consideration of evidence, and the findings of the lower courts should not be reversed merely on the ground that an alternative view is possible on the facts of the case. In this case, such a position did not also emanate from the evidence on record.

7.1. This Court, in the ***State of Maharashtra v. Jagmohan Singh Kuldip Singh Anand, (2004) 7 SCC 659: 2004 SCC (Cri) 2003,*** observed that the High Court, in exercise of its revisional jurisdiction, cannot embark upon an in-depth roving re-examination of the oral evidence and medical evidence and come to a conclusion contrary to the consistent one reached by two courts below. In the facts of the present case, in the impugned judgment, the High Court gravely erred in upsetting the concurrent findings of conviction of the trial court and the Appellate Court by substituting its own conclusions and reasoning on the merits of the case and thereby erred in setting aside the

well-reasoned and correct judgment and orders of the trial and appellate courts.

7.2. Upon perusal of the impugned judgment and order dated 06.10.2023, it is apparent that the High Court went into great detail into each of the testimonies, documents and merits of the case, which could have been avoided, especially when the subject matter had come under its revisional jurisdiction. Instead, acting as an appellate Court, the High Court deemed it fit to go into the merits of the case, something which is generally impermissible unless a glaring contradiction is apparent on the face of the record. 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:

> "5. ... 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 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 own 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 coming to the conclusion that the High Court exceeded its jurisdiction in interfering with the

conviction of the Respondent by reappreciating the oral evidence. ..."

7.3. The contours for exercise of revisional jurisdiction have been well settled by the judicial dicta of this Court wherein time and again it has been observed that the High Court shall not interfere with the orders of the lower court unless:

i. The order or finding of the lower court is perverse, grossly erroneous, glaringly unreasonable or wholly unreliable or untenable in law.
ii. The lower court has passed the impugned order after considering immaterial or irrelevant material or no material at all.
iii. There is a non-consideration of any relevant material or the judicial discretion has been exercised arbitrarily or capriciously.

7.4. This Court, in ***Sanjabij Tari v. Kishore S. Borcar, 2025 INSC 1158,*** in similar facts and circumstances wherein the High Court had reversed concurrent findings of conviction under Section 138 of NI Act, while setting aside the impugned order, observed as under:

"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. This Court is of the view that it is not for the Revisional Court to reanalyse 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."

> **7.5.** In the facts of the present case, we find that the High Court has failed to highlight any reason or material satisfaction to the effect that there was any such glaring contradiction or perversity apparent on the face of the record to justify the exercise of the powers under revisional jurisdiction and thereby erred in interfering with the judgment and orders of the courts below. Therefore, the present appeal has to be allowed by setting aside the impugned order of the High Court. In view of the aforesaid discussion, we are of the view that the High Court committed an error in setting aside the order of conviction in exercise of revisional jurisdiction. No sufficient ground has been mentioned by the High Court in its judgment to enable it to exercise its revisional jurisdiction for setting aside the conviction.

15. The present revision has to be decided as per the parameters laid down by the Hon'ble Supreme Court.

16. The informant had specifically stated in her statement (Ext. PW-2/A) that she and her daughter were returning to their home after planting *chari*. Pooja (PW-1) stated that she and her mother were planting *chari* in their field, when Reena and Rekha abused her. Satpal started uprooting chari, and when she inquired as to why he was doing so, Satpal inflicted a blow on her head. Rekha and Reena gave her beatings. Jeevan also gave her beatings, and she fell.

17. The learned Courts below had rightly pointed out that her statement was not as per the prosecution version. It was nowhere stated in the statement (Ext. PW-2/A) that Reena and

Rekha had started abusing the informant and her mother. It was stated in the statement (Ext. PW-2/A) that the victim, Pooja, went to the field to inquire from Satpal as to why he was uprooting the chari, whereas Pooja stated in her statement on oath that she was present in her field and the accused Satpal and Jeevan came to her field. Therefore, the testimony of Pooja is contrary to the prosecution's version regarding the manner and place of the incident.

18. Dalumbi Devi (PW-2) stated that she and Pooja had completed the plantation of *chari*. Reena and Rekha started abusing her. Satpal, his son Jeevan, and his wife Raj Kumari uprooted the *chari*. When she asked them not to do so, Satpal, Reena, and Rekha gave her beatings. Satpal inflicted a blow by means of the spade on Pooja.

19. The statement of this witness is also not as per the prosecution version. She stated that Reena and Rekha had abused her, which was never stated by her in her statement (Ext. PW-2/A). She stated that Satpal, Jeevan, and Raj Kumari uprooted the *chari*, which is contrary to the initial version recorded in (Ext. PW-2/A) that Satpal and Jeevan had uprooted the *chari*.

20. Pooja admitted in her cross-examination that there is a dispute regarding the land. Dalumbi Devi (PW-2) also stated that the dispute is regarding the boundaries. Hence, the learned Courts below had rightly held that the relationship between the parties was strained and the prosecution version was required to be seen with due care and caution.

21. Tripta Devi (PW-3) stated that the accused were arguing with Dalumbi and Pooja. When she was returning to her home, she heard the noise that a spade had been used. She went to the spot and rescued the informant from the accused. She also admitted in her cross-examination that she had reached her house at the time of the quarrel. She also admitted that there is a dispute between the parties over the boundaries.

22. The statement of this witness that she heard the noise that the spade was used to inflict the injury shows that the injury was not inflicted in her presence and she had heard this fact. Therefore, she cannot be called to be an eyewitness.

23. Dr S.K. Bansal (PW-6) examined Pooja. He found a 1 c.m. cut mark with ragged margins on the forehead and a 1 c.m. cut mark with ragged margins on the scalp. He stated that the injury could be caused by means of the edge of the spade. He

admitted in his cross-examination that the injury could be caused by means of a fall on a sharp-edged stone.

24. This witness admitted the alternative possibility that the injury could have been caused by a fall. This admission, coupled with the discrepancies in the testimonies of the prosecution's witnesses, will make the prosecution's case suspect.

25. There is no other evidence to corroborate the statements of the witnesses.

26. Therefore, the learned Courts below had rightly held that the testimonies of the prosecution witnesses contradicted each other on material aspects and it was not possible to rely upon them. This was a reasonable view that could have been taken based on the material placed before the learned Courts, and no interference is required with the reasonable view of the learned Courts below.

27. No other point was urged.

28. In view of the above, the present revision fails and is dismissed.

29. In view of the provisions of Section 437 A of the Code of Criminal Procedure (Section 481 of Bhartiya Nagarik Suraksha

Sanhita, 2023) the respondents are directed to furnish bail bond in the sum of ₹50,000/- each with one surety each of the like amount to the satisfaction of the learned Registrar (Judicial) of this Court/learned Trial Court each, which shall be effective for six months with a stipulation that in the event of a Special Leave Petition being filed against this judgment or on grant of the leave, the respondents on receipt of notice thereof shall appear before the Hon'ble Supreme Court.

30. A copy of this judgment, along with records of the learned Courts below, be transmitted forthwith.

(Rakesh Kainthla)
Judge

26th October, 2026
(Chander)