IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No. 534 of 2026
Reserved on: 5.11.2026
Date of Decision: 18.11.2026.

Poonam Chandel ...Petitioner

Versus

Joginder Singh and Ors. ...Respondents

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

For the Petitioner : Mr Rajat Kumar, Advocate,
For the Respondent No. 3 : Mr Tarun Pathak, Deputy Advocate General

Rakesh Kainthla, Judge

The petitioner has filed the present revision against the judgment dated 03.06.2026, passed by the learned Sessions Judge, Bilaspur, District Bilaspur (learned Appellate Court), vide which the judgment of acquittal passed by the learned Judicial Magistrate First Class, Jhandutta, District Bilaspur (learned Trial Court), was upheld. *(The parties shall hereinafter be referred to in*

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

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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 challan before the learned Trial Court against the accused for the commission of an offence punishable under Section 448 read with Section 34 of the Indian Penal Code (IPC). It was asserted that the informant, Poonam Chandel (PW4), was married to Ashwani Chandel in the year 1997. She and her husband were provided a room after her marriage. Her husband died in the year 1999. The informant continued to reside in the room allotted to her. However, she had to take a room near the petrol pump to run it. She had kept her articles in the room allotted to her. She went to her room and found that the lock of the room was broken and her articles were kept in the courtyard. She made a complaint to the police. HC Himmat Singh (PW11) went to the spot for verification. He recorded the informant's statement (Ex. PW1/B), which was sent to the police station, where an FIR (Ex. PW10/B) was registered. HC Himmat Singh (PW11) investigated the matter. He prepared the site plan (Ex.PW11/A) and recorded the statements of witnesses as per their version. He seized the informant's articles

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kept outside the room, vide memo (Ex. PW2/A) and handed them over to the informant on sapurdari. Avinash Chandel produced one broken lock (Ex. P1) and one iron rod (Ex. P2), which were seized vide memo (Ex. PW1/C). HC Himmat Singh filed applications (Ex. PW1/E & Ex. PW1/F) and obtained a copy of the Parivar register (Ex.PW9/A). He took the photographs (Ex. PW11/G1 to Ex.PW11/G7) and he recorded the statements of witnesses as per the version. After the 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, chares were framed against them for the commission of an offence punishable under Section 448 read with Section 34 of the IPC, to which they pleaded not guilty and claimed to be tried.

4. The prosecution examined 11 witnesses to prove its case. HC Hemraj (PW1) was working as MHC, with whom the case property was deposited. Krishna Devi (PW2) and Constable Jeevan Kumar (PW8) witnessed the recoveries. Vijender Singh (PW3) and Nakshatra Singh (PW6) did not support the

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prosecution case. Poonam Chandel (PW4) is the victim. Ravinder Singh (PW5) proved the informant's possession. Constable Sushil Kumar (PW7) carried the informant's statement to the police station. Ram Prakash (PW9) produced the copy of the Parivar register. Ram Dass (PW10) signed the FIR. HC Himmat Singh (PW11) investigated the matter

5. The accused, in their statements recorded under Section 313 of the Code of Criminal Procedure (CrPC), denied the prosecution case in its entirety. They claimed that all the family members resided together in one house. They did not produce any evidence in their defence.

6. The learned Trial Court held that the informant had a strained relationship with the accused. There was no evidence that the informant was residing in the room; rather, she claimed that she used to visit her matrimonial home during the family functions. The prosecution had failed to prove its case beyond reasonable doubt; hence, the learned Trial Court acquitted the accused.

7. Being aggrieved by the judgment passed by the learned Trial Court, the informant filed an appeal, which was

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decided by the learned Sessions Judge, Bilaspur, District Bilaspur (learned Appellate Court). The learned Appellate Court concurred with the findings recorded by the learned Trial Court that the prosecution had failed to prove its case beyond reasonable doubt that the informant was in possession of the room or that the accused had broken the lock. There was no infirmity in the judgment passed by the learned Trial Court. Hence, the appeal was dismissed.

8. Being aggrieved by the judgments passed by the learned Courts below, the informant has filed the present revision, asserting that the learned Courts below erred in acquitting the accused. The informant had a right to reside in the shared household as per Section 17 of the Protection of Women from Domestic Violence Act. The ownership of the house was immaterial. The allotment of the petrol pump did not extinguish the informant's right over the room. The removal of the informant's article after breaking the lock amounted to trespass. Therefore, it was prayed that the present revision be allowed and the judgments passed by the learned Courts below be set aside.

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9. I have heard Mr Rajat Kumar, learned counsel for the informant/petitioner, and Mr Tarun Pathak, learned Deputy Advocate General for the respondent no. 3/State.

10. Mr Rajat Kumar, learned counsel for the petitioner, submitted that the learned Courts below erred in acquitting the accused. The informant has a right to reside in the shared household, and she could not have been dispossessed by breaking the lock and keeping the articles outside the room. Learned Courts below were influenced by the fact that the accused Joginder is the owner of the house, but the ownership was immaterial in the present case. Hence, he prayed that the present revision be allowed and the judgments passed by the learned Courts below be set aside.

11. Mr Tarun Pathak, learned Deputy Advocate General for the respondent no. 3/State, submitted that the prosecution had proved its case beyond reasonable doubt and the learned trial Court erred in acquitting the accused. Therefore, he prayed that the present revision be allowed.

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

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13. It was laid down by the Hon'ble Supreme Court in ***Ganesha v. Sharanappa*, *(2014) 1 SCC 87: 2013 SCC OnLine SC 1014*** that interference with the acquittal is required when there is manifest error of law or fact or the order suffers from glaring illegality resulting in miscarriage of justice. It was observed at page 91:

> **11.** However, in a case where the finding of acquittal is recorded on account of misreading of evidence or non-consideration of evidence or perverse appreciation of evidence, nothing prevents the High Court from setting aside the order of acquittal at the instance of the informant in revision and directing fresh disposal on merit by the trial court. In the event of such direction, the trial court shall be obliged to reappraise the evidence in light of the observation of the Revisional Court and take an independent view uninfluenced by any of the observations of the Revisional Court on the merits of the case. By way of abundant caution, we may herein observe that interference with the order of acquittal in revision is called for only in cases where there is manifest error of law or procedure and in those exceptional cases in which it is found that the order of acquittal suffers from glaring illegality, resulting in miscarriage of justice. The High Court may also interfere in those cases of acquittal caused by shutting out the evidence which otherwise ought to have been considered or where the material evidence which clinches the issue has been overlooked. In such an exceptional case, the High Court in revision can set aside an order of acquittal, but it cannot convert an order of acquittal into that of an order of conviction. The only course left to the High Court in such exceptional cases is to order retrial.

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

15. The informant Poonam Chandel (PW4) stated that one room was allotted to her and her husband after her marriage. She shifted to Daroti in the year 2003 but kept her articles in the room. She came to her matrimonial home on 4th November 2017 and found that Joginder Singh and Avinash had kept her articles outside the room.

16. Section 441 of the IPC defines criminal trespass as an entry upon the property in possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property. It was laid down by the Hon'ble Supreme Court in ***Mathri v. State of Punjab, 1963 SCC OnLine SC 180: AIR 1964 SC 986,*** that the prosecution has to prove that the aim of the accused was to insult, intimidate or annoy and merely because the insult, intimidation or annoyance was caused by the entry is not sufficient. It was observed:

> **18.** We think, with respect, that this statement of law, as also the similar statements in ***Laxman Raghunath case [26 Bombay 558]*** and in ***Sellamuthu Servaigaran case [ILR 35 Mad 186],*** is not quite accurate. The correct position in law may, in our opinion, be stated thus: In order to establish that the entry on the property was with the intent to

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> annoy, intimidate or insult, it is necessary for the Court to be satisfied that causing such annoyance, intimidation or insult was the aim of the entry; that it is not sufficient for that purpose to show merely that the natural consequence of the entry was likely to be annoyance, intimidation or insult, and that this likely consequence was known to the persons entering; that in deciding whether the aim of the entry was the causing of such annoyance, intimidation or insult, the Court has to consider all the relevant circumstances including the presence of knowledge that its natural consequences would be such annoyance, intimidation or insult and including also the probability of something else than the causing of such intimidation, insult or annoyance, being the dominant intention which prompted the entry.

17. This position was reiterated in ***Rajinder v. State of Haryana*, *(1995) 5 SCC 187: 1995 SCC (Cri) 852,*** wherein it was observed at page 198:

> "**21.** It is evident from the above provision that unauthorised entry into or upon property in the possession of another or unlawfully remaining there after lawful entry can answer the definition of criminal trespass if, and only if, such entry or unlawful remaining is with the intent to commit an offence or to intimidate, insult or annoy the person in possession of the property. In other words, unless any of the intentions referred to in Section 441 is proved, no offence of criminal trespass can be said to have been committed. Needless to say, such an intention has to be gathered from the facts and circumstances of a given case..."

18. The informant has nowhere claimed that the accused had acted to insult, intimidate or annoy her and the essential ingredient of the criminal trespass was not proved.

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19. The informant's statement shows that she was not present at the time of breaking open the lock and her testimony does not establish the liability of the accused. Ravinder Singh Chandel (PW5) stated in his examination-in-chief that the lock was not broken in his presence. He admitted in his cross-examination that the accused had not taken out the articles in his presence. Therefore, his testimony also does not establish that the accused had broken the lock.

20. No other witness has proved that the accused had broken the lock; thus, the accused cannot be held liable for committing the criminal trespass.

21. It was submitted that the informant has a right to reside in the shared household. This submission will not help the informant. This Court is concerned with the informant's possession and the criminal trespass by the accused. The prosecution has failed to prove that the accused had committed the criminal trespass, and the right of the informant to reside in the shared household will not prove the criminal liability of the accused.

22. No other point was urged.

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23. Therefore, there is no infirmity in the judgments passed by the learned Courts below, and the present revision fails and is dismissed.

24. The present revision stands disposed of, so also the pending miscellaneous application(s), if any.

25. A copy of the judgment, along with the records of the learned Courts below, be sent back forthwith.

(Rakesh Kainthla)
Judge

18th November, 2026
(ravinder)