IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No. 683 of 2026
Reserved on: 13.10.2026
Date of Decision: 02.11.2026.

Hritik Gupta ...Petitioner

Versus

Amritanshu Gupta ...Respondent

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

For the Petitioner : Present in person through V.C.
For the Respondent : Nemo

Rakesh Kainthla, Judge

The petitioner has filed the present petition against the order dated 19.09.2026 passed by the learned Additional Chief Judicial Magistrate, Court No. 1, Dharamshala, District Kangra, HP (learned Trial Court) vide which an application filed by the petitioner under Section 94 of Bharatiya Nagrik Suraksha Sanhita, 2023 (BNSS) was dismissed. *(The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience).*

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

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2. Briefly stated, the facts giving rise to the present revision petition are that the petitioner/complainant filed a complaint before the learned Trial Court, which was listed for recording preliminary evidence on 27.08.2026. The complainant filed an application under Section 94 of BNSS to summon the Chief Administrative Officer/Superintendent attached to the Court of District and Sessions Judge, Jalandhar, Punjab, the Record Keeper attached to the Court of Principal Judge, Family Court, Jalandhar, Punjab, and the Court of Additional Principal Judge-II, Family Court, Jalandhar, Punjab, and direct them to produce the complete judicial record of the mutual divorce proceeding under Section 13B(1) and 13B(2) of the Hindu Marriage Act titled Amritanshu Gupta versus Aseem Handa. It was asserted that the non-applicant no. 1 told the complainant that she was legally divorced on 04.08.2022, but she did not show her divorce-related documents to the complainant on 27.08.2022 during their in-person meeting at Noida, Uttar Pradesh. The non-applicants no. 1 and 2 stated in their statements recorded at Police Station, Dharamshala, on 08.07.2025, that non-applicant no. 1 had married Aseem Handa in the year 2021 and obtained a divorce by way of mutual consent in the year 2022 within a

comparatively short span of time. It is necessary to ascertain how the non-applicant no. 1 could have entered into the marriage and obtained mutual divorce before she had commenced discussions regarding the matrimonial alliance with the complainant on 04.08.2022 and met the complainant in person on 27.08.2022. The relevant record of the mutual divorce proceedings is material. The non-applicant no. 1 was a legally married person at the time of discussion with the complainant. The judicial record is necessary to prove these facts. Therefore, the application was filed to direct the summoning of the officers with the record.

3. Learned Trial Court held that the main complaint was filed with the allegation of cheating under Section 318 of Bharatiya Nyaya Sanhita (BNS) regarding a representation made by non-applicant no. 1 about her marital status. Therefore, the factum of marriage and date of its dissolution were important. The pleadings, application, statement, order, decree and accompanying documents may not be relevant, but only the judgment and decree would be relevant. A roving enquiry cannot be conducted under Section 94 of the BNSS. There was no justification for summoning the complete record. Hence, the application was dismissed.

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4. Being aggrieved by the order passed by the learned Trial Court, the complainant has filed the present revision asserting that the learned Trial Court found the record to be relevant but dismissed the application on the ground that the complete record could not be summoned. The application was not an attempt to discover an unknown offence, but to verify a specific fact from identifiable judicial proceedings. The absence of the precise case number or the Court could not be treated as a material defect. The names of the parties were masked on the e-Court's website, and it was not possible to ascertain the case number. The learned Trial Court could have narrowed the record, and the dismissal of the application was not proper. The production of the documents is necessary for proving the complaint filed before the learned Trial Court. Hence, it was prayed that the present petition be allowed and the order passed by the learned Trial Court be set aside.

5. The petitioner/complainant Hritik Gupta appeared in person through video conferencing and submitted that the learned Trial Court erred in dismissing the application on the ground that the case number was not mentioned and an attempt was being made to conduct a roving enquiry. The learned Trial

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Court could have summoned the relevant record, and it was not proper to dismiss the application. The complainant has a right to produce the documents which are necessary for the adjudication of the dispute before the Court. The learned Trial Court had itself found that the documents were necessary for the adjudication of the complaint pending before it and erred in dismissing the application. Therefore, he prayed that the present petition be allowed and the order passed by the learned Trial Court be set aside. He relied upon the judgments of the Hon'ble Supreme Court in ***Arjun Panditrao Khotkar vs. Kailash Kushanrao Gorantyal (2020) 7 SCC 1, Rajendra Prasad vs. Narcotic Cell (1999) 6 SCC 110, Young Indian vs. Subramanian Swami and Anr (2016)*** and ***State of Orissa vs. Debendra Nath Pandhi (2005) 1 SCC 568*** in support of his submissions.

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

7. The petitioner has filed a revision against an order dismissing an application filed under Section 94 of BNSS [corresponding to Section 91 of the Code of Criminal Procedure (CrPC)]. It was laid down by the Hon'ble Supreme Court in

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Sethuraman v. Rajamanickam*, *(2009) 5 SCC 153: (2009) 2 SCC (Cri) 627: 2009 SCC OnLine SC 575, that an order rejecting an application under Section 311 of CrPC or Section 91 of CrPC for production of documents is an interlocutory order and no revision lies against such an order. It was observed at page 154:

> **5.** Secondly, what was not realised was that the orders passed by the trial court refusing to call for the documents and rejecting the application under Section 311 CrPC were interlocutory orders and, as such, the revision against those orders was clearly barred under Section 397(2) CrPC. The trial court, in its common order, had clearly mentioned that the cheque was admittedly signed by the respondent-accused and the only defence that was raised was that his signed cheques were lost and that the appellant complainant had falsely used one such cheque. The trial court also recorded a finding that the documents were not necessary. This order did not, in any manner, decide anything finally. Therefore, both the orders, i.e. one on the application under Section 91 CrPC for production of documents and the other on the application under Section 311 CrPC for recalling the witness, were orders of an interlocutory nature, in which case, under Section 397(2), revision was clearly not maintainable. Under such circumstances, the learned Judge could not have interfered in his revisional jurisdiction. The impugned judgment is clearly incorrect in law and would have to be set aside. It is accordingly set aside. The appeals are allowed.

8. Therefore, the present petition is not maintainable and is liable to be dismissed as such.

9. Even otherwise, the application has been filed for summoning the record lying before a competent Court. It was

laid down by a Division Bench of the Rajasthan High Court in ***Mahant Deepak Swami v. Addl. Distt. & Sessions Judge, (Fast Track) No. 5, Jaipur City, Jaipur, reported in 2005 (6) RRD 1924 (Raj.)(DB)***, that the Court cannot be construed to be a person within the meaning of Section 91. It was observed:

> "Summons/orders under Section 91, Cr. P.C., is meant to be issued to a person. The Court cannot be construed to be a person. A police officer issuing orders cannot be construed to be an officer competent to issue any such orders to a Court for production of any document. The argument of the learned counsel for the appellant is not an argument in consonance with the language used in Section 91 Cr. P.C. If police can be seen to be empowered to issue orders to a Court, it will lead to a situation which cannot be appreciated. The powers under Section 91 Cr. P.C. have to be exercised in the manner prescribed only and not otherwise....."

10. Therefore, the application was misconceived as no such order could have been passed against the Court.

11. In any case, the certified copy of the Court records is admissible. Section 65(e) permits the party to give secondary evidence when the original is a public document, but it also provides that when the original is a public document, its certified copy and no other kind of secondary evidence is admissible. It was laid down by the Patna High Court in ***Jai Gopal Singh v. Divisional Forest Officer, 1953 SCC OnLine Pat 29: AIR 1953 Pat 310,***

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that it is impermissible to lead any other evidence except the certified copy of the public document. It was observed at page 311:

> "**12.** What constitutes primary evidence in the case of a document is defined in S. 62. The secondary evidence is defined in S. 63, and under cl. (5) of that section, an oral account of the contents of a document given by some person who has himself seen it is also secondary evidence. But S. 64 says that "documents must be proved by primary evidence except in the cases hereinafter mentioned". Section 65 gives the list of cases in which secondary evidence may be given of the existence, condition or contents of a document. It has seven clauses. Clause (e) of that section speaks about a case when the original is a public document within the meaning of S. 74. In the present case, the original of the notification is in the form of an official Gazette, which, under S. 74, Evidence Act, is a public document. As to such a document, the provision laid down in S. 65 says that "a certified copy of the document, but no other kind of secondary evidence, is admissible". In this view of the provisions of law, I think, the notification under Section 30 of the Bihar Private Protected Forests Act, 1947, being in the form of a public document, namely, the official Gazette, cannot be proved by any other kind of secondary evidence save by its certified copy."

12. A similar view was taken by Allahabad High Court in ***Ganesh Prasad v. Badri Prasad Bholanath*, *1980 SCC OnLine All 887: AIR 1980 All 361,*** wherein it was observed at page 362:

> **6**.....The court below has further relied upon another assessment list of the subsequent quinquennial in which, according to it, the name of Umesh Chandra Gupta is mentioned. I do not find any certified copy of the aforesaid year. The learned counsel for the respondent pointed out

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> that there were two papers, 126C and 127C, which were filed in court, and subsequently the same were proved by the clerk concerned. These papers were filed per list 125/C by the defendant's counsel, Sri Satya Narain Mishra, Advocate, on 4-3-1978 after remand. I have looked at these papers. These papers are not certified copies issued by the Municipal Board in accordance with Section 33 of the Municipalities Act. These have been issued by one Rashid Ali. They do not bear any copying stamp, folio, or seal of the Municipal Board. That also did not come under the definition of certified copies as required by Section 65 of the Evidence Act. I compared these papers with the certified copy on record, and I find that these papers were incorrect and wholly inadmissible in evidence. They were not issued by the Municipal Board as required, and further, these papers, not being the certified copies, were inadmissible as provided by Cl. (f) of Sec. 65 read with its proviso. This proviso completely barred any other kind of secondary evidence except a certified copy."

13. Therefore, only a certified copy of the Court record could have been produced, and it was impermissible to summon the record. Hence, the application was liable to be dismissed on this ground as well.

14. ***Arjun Panditrao Khotkar*** (supra) deals with Section 65B of the Indian Evidence Act, ***Rajendra Prasad*** (supra) deals with Section 311 of CrPC, and ***Debendra Nath Pandhi*** (supra) deals with the stage at which the jurisdiction under Section 91 of CrPC can be exercised and are not relevant to the adjudication of the present revision. The complete citation of ***Young Indian*** (supra)

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has not been provided, and nothing can be said about this judgment.

15. Therefore, even on merits, there is no infirmity in the order passed by the learned Trial Court.

16. In view of the above, the present petition fails and is dismissed. The present petition is disposed of and so are the pending application(s), if any.

17. The observations made hereinbefore shall remain confined to the disposal of the revision petition and will have no bearing whatsoever on the merits of the case.

(Rakesh Kainthla)
Judge

2nd November, 2026
(Nikita)