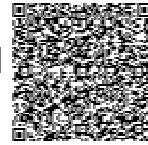


CRR-1667-2016 (O&M)

2026:PHHC:073341



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1667-2016 (O&M)

Aman Bhalla

....Petitioner

versus

State of Punjab and others

....Respondents

Reserved on : May 07, 2026

Date of Pronouncement/Decision: May 11, 2026

Date of Uploading : May 11, 2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Rai Singh Chauhan, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG Punjab.

Mr. H.P.S. Ghuman, Advocate
for respondents No.2 and 3.

SUMEET GOEL, J.

Present Criminal Revision Petition has been filed seeking setting aside of the impugned judgment dated 12.06.2014 passed by the learned Additional Chief Judicial Magistrate, Pathankot (for short, 'the trial Court'), whereby respondents No. 2 and 3 were acquitted of the charges framed against them by extending the benefit of doubt. The present petition also seeks setting aside of the judgment dated 28.01.2016 passed by the learned Additional Sessions Judge, Pathankot (for short, 'the Appellate Court'), whereby the appeal preferred by the petitioner-complainant against the aforesaid judgment dated 12.06.2014 came to be dismissed.

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2. Facts relevant for adjudication of the present petition are that the petitioner, being the complainant, got registered FIR No.140 dated 28.12.2011 under Sections 448, 506 and 34 IPC at Police Station Division No.2, Pathankot. In the said FIR, it was alleged that during the intervening night of 24.12.2011 and 25.12.2011, respondents No. 2 and 3, in furtherance of their common intention, committed criminal trespass by forcibly entering into the shop of the petitioner-complainant, which was stated to be in his possession, with an intention to threaten and cause injury to him.

3. After the completion of investigation, challan was presented and respondents No.2 and 3 were put to trial. The learned trial Court, upon appreciation of the evidence on record as also the submissions advanced by the rival parties, acquitted respondents No.2 and 3, vide judgment dated 12.06.2014. Being aggrieved by the said judgment of acquittal, the petitioner – complainant had preferred an appeal which came to be dismissed by the learned Sessions Judge vide judgment dated 28.01.2016, thereby affirming the findings recorded by the trial Court.

3.1. The petitioner – complainant, aggrieved by the findings of both the Courts below, has now invoked the revisional jurisdiction of this Court, seeking setting aside of the aforesaid judgments passed by the learned trial Court as also Sessions Judge. However, it is well-settled law that the scope of revision is limited and does not entail re-appreciation of evidence unless there is a manifest illegality or a serious miscarriage of justice.

4. The *petition in hand* seeks to impugn the judgment of acquittal passed by the learned Courts below. However, Section 401 (3) of Cr. P.C., 1973, imposes an explicit statutory prohibition against the High Court

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converting a finding of acquittal into a conviction in exercise of its revisional jurisdiction. The issue regarding maintainability, given this unequivocal status embargo, was dealt with by this Court in the case of **CRR-647-2023** titled as **Ajeet Singh versus Inderjeet and others**, decided on **13.10.2025**, wherein it was held as under:

“7.1. The High Court wields a crucial revisional jurisdiction under Sections 397 and 401 of the Cr.P.C./ Sections 438 and 442 of the BNSS. This jurisdiction is fundamentally supervisory in nature, empowering the superior courts to scrutinize the records of any subordinate criminal court. The primary objective thereof is to ascertain the correctness, legality, or propriety of any finding, sentence, or order passed by the subordinate court, and to ensure the regularity of its proceedings. The legislative design behind these provisions is to vest broad powers in the revisional court(s). This expansive language reflects a clear intention to establish an effective mechanism for rectifying any manifest error, illegality, or impropriety that may have occurred in the proceedings before a subordinate court. In essence, revisional jurisdiction serves as a vital avenue for an aggrieved individual to seek redress against an erroneous order or proceeding of a subordinate court. However, even in this broad grant of power, the legislature, in its wisdom, has imposed specific, circumscribed limitations. The revisional jurisdiction, much like a carefully calibrated instrument, is explicitly unavailable against interlocutory orders and, crucially, against orders which are appealable in nature. A further restriction placed upon the exercise of such revisional jurisdiction by the High Court is envisaged under Section 401(3) of Cr. P.C.—to the extent that a finding of acquittal cannot be converted into that of conviction—thereby rendering the petitions in hand as non-maintainable in the present form.

*7.2. Pertinently, the petitions in hand preferred by the complainant laying challenge to the acquittal are governed by proviso to Section 372 of Cr. P.C. Thus, notwithstanding the statutory embargo contained in Section 401(3) of Cr. P.C., the legal frame work provides a mechanism to address this procedural lacunae—Section 401(5) of Cr. P.C. acts as an enabling provision, empowering the High Court with the discretion to treat a revision petition as a formal appeal. This salvaging power is contingent upon the Court being satisfied that the revision petition has been filed under the erroneous belief that no appeal was available and that such a correction is necessary in the interest of justice. To ruminate on the aspect of ‘interest of justice’, this Court will have to delve into the merits of the petitions in hand. A profitable reference in this regard, can be made to the dicta passed by the Hon’ble Supreme Court of India in case of **Mahabir vs. State of Haryana, 2025 INSC 120**, wherein it is held as under:*

“40. This Court in Joseph Stephen & Ors. v. Santhanasamy & Ors. reported in (2022) 13 SCC 115, laid down that on a plain reading of sub-section (3) of Section 401 CrPC, it has to be held that sub-section (3) of Section 401 CrPC prohibits/bars the High Court to convert a finding of acquittal into one of conviction. Para 10 reads thus:-

"10. Applying the law laid down by this Court in the aforesaid decisions and on a plain reading of sub-section (3) of Section 401CrPC, it has to be held that sub-section

(3) of Section 401CrPC prohibits/bars the High Court to convert a finding of acquittal into one of conviction. Though and as observed herein above, the High Court has revisional power to examine whether there is manifest error of law or procedure, etc. however, after giving its own findings on the findings recorded by the court acquitting the accused and after setting aside the order of acquittal, the High Court has to remit the matter to the trial court and/or the first appellate court, as the case may be."

41. *This Court in Joseph Stephen (supra), holds that first, the High Court has to pass a judicial order to treat an application for revision as petition of appeal. The High Court has to pass a judicial order because sub-section (5) of Section 401 CrPC provides that if the High Court is satisfied that such revision application was made under the erroneous belief that no appeal lies thereto and that it is necessary in the interests of justice so to do. While treating the application for revision and to deal with the same as a petition of appeal, the High Court has to record the satisfaction as provided under sub-section (5) of Section 401 CrPC. Para 14 reads thus:-*

"14. Now so far as the power to be exercised by the High Court under sub-section (5) of Section 401 CrPC, namely, the High Court may treat the application for revision as petition of appeal and deal with the same accordingly is concerned, firstly the High Court has to pass a judicial order to treat the application for revision as petition of appeal. The High Court has to pass a judicial order because sub-section (5) of Section 401 CrPC provides that if the High Court is satisfied that such revision application was made under the erroneous belief that no appeal lies thereto and that it is necessary in the interests of justice so to do. While treating with the application for revision as petition of appeal and deal with the same accordingly, the High Court has to record the satisfaction as provided under sub-section (5) of Section 401 CrPC. Therefore, where under the CrPC an appeal lies, but an application for revision has been made to the High Court by any person, the High Court has jurisdiction to treat the application for revision as a petition of appeal and deal with the same accordingly as per sub-section (5) of Section 401 CrPC, however, subject to the High Court being satisfied that such an application was made under the erroneous belief that no appeal lies thereto and that it is necessary in the interests of justice so to do and for that purpose the High Court has to pass a judicial order, may be a formal order, to treat the application for revision as a petition of appeal and deal with the same accordingly."

*In view of the dicta passed in **Mahabir** (supra), for treating petitions in hand as appeal(s) by the complainant, this Court is bound to record a satisfaction that it is necessary to do so in the 'interest of justice'. In order to record any such satisfaction, this court has to go into the merits of the grounds put forth on behalf of the petitioner seeking to challenge the impugned judgment of acquittal."*

This Court has, thus, proceeded to adjudicate the petition in hand into its merits.

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5. Learned counsel for the petitioner has argued that the impugned judgments passed by the Courts below are perverse, contrary to the evidence available on record and suffer from misreading and non-appreciation of material evidence. It has been contended that the petitioner-complainant was in possession of the shop in question as a tenant and although an ejectment petition had earlier been filed by the previous landlord, the same was subsequently withdrawn. Thereafter, the shop was sold to Santosh Kumar, wife of Baldev Raj (respondent No.2 herein). Learned counsel has submitted that the petitioner had instituted a civil suit before the learned Civil Judge (Senior Division), Pathankot seeking injunction against the vendor, vendee and respondent No.2 from interfering in his possession or forcibly dispossessing him from the shop in question, wherein interim protection was also granted in his favour. It has been further contended that the defence set up by the private respondents that an oral settlement had allegedly taken place on 24.12.2011, pursuant where to an amount of Rs.50,000/- was paid to the petitioner and vacant possession of the shop was voluntarily handed over, remained wholly unsubstantiated as none of the respondents entered the witness box to prove the alleged compromise, thereby warranting an adverse inference against them. Learned counsel has argued that the learned Civil Court, while decreeing the suit vide judgment and decree dated 13.08.2015, specifically recorded a finding that possession of the suit property remained with the petitioner and also rejected the plea of voluntary handing over of possession pursuant to any settlement. It has further been argued that the private respondents had earlier challenged the order dated 18.12.2013 passed by the learned Sessions Judge by filing CR-2227-2014

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before this Court, however, the same was dismissed vide order dated 10.11.2014 while observing that there was no evidence regarding any oral settlement or voluntary delivery of possession and that the registration of FIR No.140 dated 28.12.2011 on the very next day itself created doubt over the alleged compromise. Learned counsel has further submitted that the petitioner had specifically alleged in the FIR that during the intervening night of 24/25.12.2011, the private respondents, in furtherance of their common intention, committed criminal trespass by entering into the premises in possession of the petitioner with intent to dispossess and threaten him. It has been argued that despite the defence of voluntary delivery of possession already having been negated by the competent Civil Court as well as by this Court, the Courts below erroneously ignored the said material findings and acquitted the respondents on wholly untenable grounds. Learned counsel has further submitted that the observation regarding delay in lodging the FIR is factually incorrect as the FIR was admittedly registered on the very next day of the occurrence, thereby falsifying the plea of voluntary settlement. It has thus been contended that the Courts below ignored material evidence establishing forcible dispossession of the petitioner and relied upon irrelevant considerations, resulting in grave miscarriage of justice. Accordingly, it has been prayed that the impugned judgments/orders, being patently illegal and perverse, deserve to be set aside.

6. Learned State counsel, while raising submissions in tandem with the submissions raised by learned counsel for the petitioner – complainant has submitted that despite the stay order operating in favour of

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the petitioner – complainant, who was a tenant, private respondents had forcibly taken possession of the shop in dispute. It was further argued that although the private respondents sought to set up a defence that the complainant had voluntarily handed over vacant possession of the shop in question to them, no such plea was raised in their statement recorded under Section 313 Cr.P.C. Private respondents also failed to specify the persons in whose presence possession was allegedly delivered. It has been asserted that the name of DW-1 Yogesh Kumar, or the alleged date and circumstances of delivery of possession, were never put to the complainant during cross-examination. It was additionally submitted that even though DW-1 Yogesh Kumar was examined to support the plea that possession of the shop in question had been handed over to the private respondent upon payment of Rs.50,000/-, such a defence finds no mention in the statutory statement under Section 313 Cr.P.C. On these submissions, it has been argued that the impugned judgments of the Courts below require interference and the petition in hand deserves to be granted.

7. On the other hand, learned counsel appearing for respondents No.2 and 3 has argued that the findings recorded by the Courts below are neither perverse nor contrary to the evidence available on record and do not suffer from any misreading or non-appreciation of material evidence warranting interference by this Court in exercise of revisional jurisdiction. Learned counsel has contended that the petitioner-complainant had voluntarily handed over possession of the shop in question to the private respondents on 24.12.2011 pursuant to an oral settlement arrived at between the parties and had also received an amount of Rs.50,000/- in cash in the

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presence of independent witnesses. It has been further argued that the prosecution version is rendered doubtful in view of the unexplained and unreasonable delay on the part of the petitioner-complainant in approaching the police authorities. Learned counsel has further submitted that no independent witness has been examined by the prosecution in support of its allegations and all the witnesses examined are interested witnesses closely associated with the petitioner-complainant. It has also been contended that both the learned trial Court as well as the learned Appellate Court, after due appreciation of the oral as well as documentary evidence brought on record, have concurrently returned findings of acquittal in favour of respondents No.2 and 3 and the said findings, being based upon proper appreciation of evidence, do not call for any interference by this Court. On the strength of these submissions, learned counsel has prayed for dismissal of the present revision petition.

8. I have heard learned counsel for the rival parties and have perused the record available on case file.

9. Concededly, the petitioner-complainant was in possession of the shop in question as a tenant, whereas the private respondents were the landlords thereof. It is also not in dispute that the petitioner had instituted a civil suit seeking injunction restraining the private respondents from interfering in his possession or forcibly dispossessing him from the demised premises and vide interim order dated 06.12.2011, the learned Civil Court had restrained the private respondents from interfering in the possession of the petitioner-complainant. However, upon appreciation of the evidence brought on record, the learned trial Court returned findings of acquittal in

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favour of respondents No.2 and 3 by noticing various material contradictions, inconsistencies and infirmities in the prosecution case.

9.1. The learned trial Court observed that PW-1 Aman Bhalla (petitioner-complainant) made contradictory statements regarding the manner and timing in which he came to know about the alleged occurrence as also regarding submission of the application to the police. The dates mentioned in application Ex.PB were also found inconsistent with the prosecution version. It was further noticed that although the prosecution alleged presence of several persons at the spot, no independent witness was examined without any plausible explanation.

9.2. The testimony of PW-2 Sukhwinder Bhalla was also found to suffer from material contradictions. While she stated that she and her husband had witnessed the private respondents removing articles from the shop and locking it, she simultaneously asserted that nobody gathered at the spot despite her raising alarm, whereas PW-1 stated that several persons had assembled there. Similarly, contradictions were noticed regarding the presence of the complainant at the spot and the sequence of events narrated by the witnesses. The testimony of PW-3 Harbans Singh was likewise found to contain material improvements and inconsistencies vis-à-vis the version of the complainant and the contents of application Ex.PB. He alleged breaking of locks and presence of several persons, facts which did not find mention either in the statement of PW-2 or in Ex.PB itself.

9.3. The learned trial Court further noticed contradictions in the testimony of PW-5 ASI Kewal Krishan regarding receipt of the complaint and observed that the alleged occurrence dated 24.12.2011 was reported to

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the police only on 28.12.2011 without any satisfactory explanation. The Court held that such delay deprived the prosecution case of spontaneity and raised possibility of deliberation or embellishment. It was also noticed that although the petitioner alleged forcible dispossession on 24/25.12.2011, no immediate application for restoration of possession was moved before the Civil Court despite the respondents having appeared therein on 04.01.2012 and the application seeking mandatory injunction was filed only on 27.01.2012 after considerable delay. The trial Court also drew adverse inference from the non-examination of the daughter of PW-2 and PW-3, whose house they allegedly visited immediately prior to the occurrence.

9.4. Thus, the trial Court after finding that there were discrepancies and variations in the statements of the prosecution witnesses, and the same cast doubt in the prosecution version, acquitted the private respondents (*herein*) by giving them benefit of doubt.

9.5. Further, upon challenge to the aforesaid judgment of the trial Court, learned Sessions Judge also dismissed the appeal and upheld the judgment passed by the trial Court. Learned Sessions Judge observed as under:

“15. After taking into consideration the oral evidence i.e. examination-in-chief and cross-examination of the witnesses there are discrepancies and material variations in the statements of prosecution witnesses which cause fatal to the story of prosecution. The delay in lodging the FIR has not been explained by the complainant that why he did not reported the matter to the police at the earliest. The prosecution remained miserably failed to explain the delay when the alleged occurrence took place on 24.12.2011 at 11.30 to 11.45 p.m. and matter has been reported to the police on 28.12.2011. The discrepancies in the statements of witnesses are material in nature which creates doubt in the story of prosecution and benefit of the same should be given to the accused. Learned Trial Court after appreciating the corroborative and convincing evidence has come to the right conclusion by giving benefit of doubt to the respondents/accused. Thus this court find no irregularity and illegality in the judgment passed by the learned lower court.”

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10. At this juncture, it is imperative to reiterate the settled legal position governing the scope and ambit of revisional jurisdiction under Sections 397 read with 401 of the Code of Criminal Procedure, 1973, particularly while examining the correctness of an order of acquittal. It is trite law that the Revisional Court does not function as a regular Court of Appeal and the powers exercisable in revision are significantly narrower than those available in appellate jurisdiction. The object of revisional jurisdiction is primarily to satisfy the Court regarding the legality, correctness and propriety of the findings, sentence or order passed by the subordinate Court and to ensure that there has been no miscarriage of justice on account of any patent illegality, jurisdictional error or material irregularity in procedure.

10.1. It is equally well settled that interference with an order of acquittal in revisional jurisdiction is to be exercised sparingly, cautiously and only in exceptional circumstances. The Revisional Court is not expected to undertake a fresh or roving re-appreciation of the entire evidence merely because another view is possible on the basis of the material available on record. Where two views are reasonably possible and the trial Court has adopted one such plausible view, the Revisional Court ought not to substitute its own opinion merely because it may be inclined to take a different view on appreciation of evidence. The revisional power can be invoked only where there exists a glaring defect in procedure, manifest error of law, flagrant miscarriage of justice or palpable perversity in appreciation of evidence. Unless the conclusions arrived at by the Courts below are demonstrated to be arbitrary, capricious or wholly unsustainable in law, the

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Revisional Court would refrain from interfering with concurrent findings of fact, particularly when the same are founded upon appreciation of oral and documentary evidence adduced during trial.

11. Accordingly, the present criminal revision being devoid of merit is **dismissed**, accordingly.

12. Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

May 11, 2026
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No