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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Reserved on: 05.05.2026**Pronounced on: 13.05.2026**Uploaded on: 13.05.2026*+ CRL.REV.P. 180/2026, CRL.M.A. 9218/2026 & CRL.M.(BAIL)
622/2026

SHAKOTLA MISHRA

.....Petitioner

Through: Mr. Manish Yadav, Mr. Anurag
Kumar Singh, Mr. Shashank
Shekhar Chaurasia, Advocates.

Versus

STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Hitesh Vali, APP with ASI Raj
Kumar.**CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****JUDGMENT**

1. By way of this revision petition under Section 438 of the Bhartiya Nagarik Suraksha Sanhita, 2023 ["BNSS"] (corresponding to Section 397 of the Code of Criminal Procedure, 1973 ["CrPC"]), the petitioner assails his conviction and sentencing under Section 509 of Indian Penal Code, 1860 ["IPC"], in proceedings arising from FIR No. 33/2018, dated 16.11.2018, registered at P.S. Metro Police Station Ghitorni. He was convicted by a judgment of the Magistrate's Court dated 31.01.2023, and sentenced by order dated 05.02.2024, to imprisonment of six months and

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a fine of Rs. 5,000/-. By an order of the Appellate Court dated 11.03.2026, the conviction and sentence were affirmed.

A. FACTS

2. The complainant, who was then aged 18 years 11 months, alleged that she was travelling on a metro train when another passenger pulled down the zipper of his trousers and exposed himself to her. With the help of other passengers, she tackled the culprit and brought the incident to the notice of the metro staff. The person was identified as the petitioner herein.
3. Upon filing of the chargesheet, charges were framed against the petitioner under Sections 509 and 354A(1)(i) of the IPC on 29.01.2019. The petitioner pleaded not guilty and stood trial. Five witnesses were examined, including the complainant [PW-1].
4. The petitioner did not lead evidence, but made statements under Section 313 CrPC. The relevant portion is reproduced hereinbelow:

“Without Oath.

Q.1 It is in evidence against you in the testimony of PW1 that on 16.11.2018, she was traveling in Metro Station from Delhi Cant towards Huda City Centre at 5:30 pm. She was sitting on the metro seat and you accused stood in front of her and unzipped your pant and flashed your private part towards her. Then PW1 stood up and shouted on you whereafter you hid your genitals with your bag. Few people standing around PW1 helped her to inform the CISF and take you to the staff of DMRC. In the staff room of DMRC, PW1 called at 100 number. Sub-inspector Ranbir Singh arrived at the metro station at DMRC Control room. There she made complaint Ex.PW1/A. You were arrested vide memo Ex.PW1/B. Her statement u/s 164 Cr.P.C was recorded by the Magistrate which is Ex.PW1/C. The witness has identified you during his testimony in the court. What do you have to say?

A. It is wrong. On the fateful day, I was sitting in the Delhi Metro on a seat which was reserved for senior citizens and the complainant asked me to get up from the seat by pointing towards a/senior citizen who



was standing nearby. I had looked at the person she had pointed to and felt that-he was not uncomfortable and who had not asked me to vacate seat for him, therefore, kept on sitting because on that day, I was upset regarding a business transaction which went bad. I was mentally disturbed on that day, therefore, I kept sitting. However, she made me get up and herself sat on the seat and started making nasty comments about me saying that "bihari hai bihari hai". Thereafter, on hearing her nasty comments I also comments back upon her and said "tum bewakoof ho" whereafter a verbal altercation ensued between us and she created a ruckus and created a false story against me....."

5. By the impugned judgment dated 31.01.2023, the Trial Court acquitted the petitioner under Section 354A(1)(i) IPC, but convicted him under Section 509 IPC. As far as Section 354A(1)(i) IPC is concerned, the Court found the ingredient of physical contact between the complainant and the accused to be absent, and therefore, acquitted him. However, as far as Section 509 IPC is concerned, the Trial Court found against the accused, recording the following findings:

- A. The complainant's version was consistent with regard to the facts of the incident in her initial complaint, statement under Section 164 CrPC and testimony before the Court.
- B. The complainant had correctly identified the accused in Court, who was not a person known to her.
- C. The act of a man exposing his private parts to a woman would outrage the modesty of the woman.
- D. The intention of the accused was established by the consistent testimony of the complainant with regard to his unzipping of his trousers and exposing his private part to a woman.
- E. There was no material contradiction in the case of the complainant with regard to commission of the offence. The contradictions, even



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if established, were minor and related to ancillary facts, such as conduct of the accused after commission of the offence, and circumstances relating to the complainant's travel on the date of the incident. The contradictions, if any, had also been appropriately explained.

The Court found the evidence sufficient to convict the petitioner, although the prosecution had not brought any independent witness, nor placed CCTV footage before the Court.

6. As noted above, by order dated 05.02.2024, the petitioner was sentenced to six months' simple imprisonment and a fine of Rs. 5,000/-.

7. In the judgment of the Appellate Court dated 11.03.2026, the Appellate Court has affirmed the view taken by the Trial Court, and held as follows:

- A. The Trial Court's reliance upon the testimony of the complainant, which remained consistent and also withstood extensive cross-examination, was upheld.
- B. The defence taken by the petitioner in his statement under Section 313 CrPC, was disbelieved.
- C. The Appellate Court found that PW-5 [Karan Singh Meena], who was working as Controller, DMRP, had supported the complainant's statements, and had also withstood cross-examination.
- D. The Appellate Court agreed with the finding of the Trial Court that the action of a male individual unzipping his trousers and exposing his private part towards a woman would shock her modesty.



- E. The contention of the petitioner with regard to absence of public witnesses was rejected by the Appellate Court, relying upon the judgment of the Supreme Court in *Appabhai v. State of Gujarat*¹, to the effect that public witnesses are often reluctant to give evidence.
- F. The Court affirmed the decision of the Trial Court to disregard minor inconsistencies or discrepancies in the evidence, which did not affect the substratum of the case against the petitioner.
- G. The Appellate Court found that the sentence of six months' imprisonment was already "*very lenient*", as against a maximum sentence of imprisonment of three years under Section 509 IPC.

B. SUBMISSIONS OF COUNSEL

8. Mr. Manish Yadav, learned counsel for the revisionist, submitted that both the Trial Court and the Appellate Court had taken an incorrect view on the evidence. According to him, the findings were erroneous in light of the absence of independent witnesses and CCTV footage, and the fact that essential ingredient of intention to insult the modesty of a woman was missing. He submitted, particularly, that the evidence of PW-5 [Karan Singh Meena] had been misread by the Appellate Court.
9. Mr. Hitesh Vali, learned Additional Public Prosecutor, opposed the revision petition and supported the concurrent findings of the Trial Court and the Appellate Court. He submitted that the present case does not warrant interference in revisional jurisdiction, as there is no material irregularity, or jurisdictional error in the impugned judgments.

¹ 1988 Supp SCC 241 [hereinafter, "*Appabhai*"].



C. ANALYSIS

10. At the outset, it may be noted that the petitioner seeks revision of concurrent judgments of the Trial Court and Sessions Court. Before turning to the merits of the matter, it is relevant to examine the scope of the revisional jurisdiction of the High Court under Section 438 of the BNSS [corresponding to Section 397 of the CrPC].

11. The Supreme Court, in *State of Kerala v. Puttumana Illath Jathavedan Namboodiri*², was dealing with a challenge to a judgment of the Kerala High Court, in which the High Court interfered with concurrent findings of the Trial Court and Sessions Court. The Supreme Court allowed the appeal and set aside the impugned order, holding as follows:

*“...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 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 gross miscarriage of justice....”³*

12. In *Amit Kapoor v. Ramesh Chander & Anr.*⁴, the Supreme Court discussed the ambit and scope of revisional power, which the Courts,

² (1999) 2 SCC 452.

³ Emphasis supplied.

⁴ (2012) 9 SCC 460.



including High Court, can exercise under Section 397 of CrPC. The Supreme Court held as follows:

“12. Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the court to scrutinise the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.

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18. It may also be noticed that the revisional jurisdiction exercised by the High Court is in a way final and no inter court remedy is available in such cases. Of course, it may be subject to jurisdiction of this Court under Article 136 of the Constitution of India. Normally, a revisional jurisdiction should be exercised on a question of law. However, when factual appreciation is involved, then it must find place in the class of cases resulting in a perverse finding. Basically, the power is required to be exercised so that justice is done and there is no abuse of power by the court. Merely an apprehension or suspicion of the same would not be a sufficient ground for interference in such cases.

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20. The jurisdiction of the court under Section 397 can be exercised so as to examine the correctness, legality or propriety of an order passed by the trial court or the inferior court, as the case may be. Though the section does not specifically use the expression “prevent abuse of process of any court or otherwise to secure the ends of justice”, the jurisdiction under Section 397 is a very limited one. The legality, propriety or correctness of an order passed by a court is the very foundation of exercise of jurisdiction under Section 397 but ultimately it also requires justice to be done. The jurisdiction could be exercised where there is palpable error, non-compliance with the provisions of law, the decision is completely erroneous or where the judicial discretion is exercised arbitrarily.....”



13. The scope of interference in a revision petition is thus limited. Section 397 CrPC empowers the Courts to examine the correctness, legality, or propriety of any finding or order. However, while exercising such jurisdiction, the revisional Court does not ordinarily re-appreciate evidence. The Court is confined to assessing whether the findings, sentence, or order suffer from any illegality, impropriety, or material irregularity, and has to refrain from substituting its own conclusions based on evaluation of the evidence.

14. It is in this context that the arguments in the present case, with regard to the sufficiency and probative value of evidence, must be analyzed.

15. The petitioner has been convicted under Section 509 IPC, and sentenced to six months' simple imprisonment, alongwith a fine of Rs.10,000/-, which has been upheld by the Appellate Court. Section 509 IPC reads as follows:

“Section 509: Word, gesture or act intended to insult the modesty of a woman

Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years, and also with fine.”

16. In the present case, both the Trial Court and the Appellate Court have concurrently held in favour of the prosecution, on the basis of the prosecutrix's testimony. In cases of this nature, it is well settled that the sole testimony of the prosecutrix, if found to be credible, is sufficient to



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sustain a conviction⁵. The prosecutrix's version has remained consistent across her initial complaint, her statement under Section 164 CrPC, and her deposition before the Court. The said testimony has also withstood cross-examination and there is no material irregularity in reliance thereupon by both Courts below. Furthermore, the testimony of the prosecutrix finds corroboration in the deposition of PW-5 [Karan Singh Meena], who was serving as Controller, DMRP at the relevant time. His testimony remained unshaken during cross-examination, thereby lending additional credibility to the prosecution case.

17. Mr. Yadav contended that there was a contradiction in the testimony of PW-5 [Karan Singh Meena] to the extent that, in examination-in-chief, he stated that the complainant came to control room with other persons, but in cross-examination, he stated that he was informed only by complainant and he does not know if other persons were her friends or not. This does not appear to me to be material in any respect. The fact that the complainant came to the control room with other persons, is not inconsistent with her being the only informant or witness to the incident.

18. Upon a perusal of Section 509 IPC, it is evident that intention is an essential ingredient for constituting an offence under the said provision. The intention, in my view, stands clearly established from the nature of the act attributed to the petitioner. The act of a male unzipping his trousers and exposing his private parts in front of a woman in a public space is, by its very nature, an act intended to insult her modesty. It is not the petitioner's case that his trousers were left unzipped by forgetfulness

⁵Ganesan v. State, (2020) 10 SCC 573, paragraph 10.



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or mistake. The defence taken by the petitioner under Section 313 CrPC, that the incident arose out of a verbal altercation regarding a metro seat, has been disbelieved by both Courts below. The concurrent findings of the Trial Court and affirmed by the Appellate Court do not suffer from any perversity, illegality, or material irregularity warranting interference within the narrow confines of revisional jurisdiction.

19. The contention raised on behalf of the petitioner regarding absence of independent public witnesses and non-production of CCTV footage does not merit acceptance. The Trial Court has itself noted the absence of such evidence, yet proceeded to evaluate the core testimony on record. The Appellate Court has correctly applied the principle laid down by the Supreme Court in *Appabhai*, recognizing that public witnesses are often reluctant to come forward. The same has been reiterated by the Supreme Court in *Mohd. Naushad v. State (NCT of Delhi)*⁶, and *State of H.P. v. Pardeep Kumar*⁷. The absence of such corroborative evidence, therefore, does not dilute the prosecution case, when the primary witness is reliable.

20. On the aspect of sentence as well, no ground for interference is made out. The petitioner has been awarded a sentence of six months' simple imprisonment alongwith fine, whereas the maximum punishment prescribed under Section 509 IPC extends to three years. Both Courts have considered the nature of the offence and imposed a sentence that is proportionate. In fact, it has been observed by the Appellate Court that the sentence is rather lenient.

⁶ (2024) 12 SCC 494, paragraphs 122-123.

⁷ (2018) 13 SCC 808, paragraph 5.



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D. CONCLUSION

21. In view of the above, there is no ground for interference in the revisional jurisdiction of the Court.
22. The revision petition therefore stands dismissed.

MAY 13, 2026
SS/AD

PRATEEK JALAN, J