

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****Cr. Revision No. 370 of 2026****Reserved on: 25.06.2026****Decided on: 10.07.2026**

Pritam Singh**..... Petitioner****Versus****State of H.P.****.... Respondent**

Coram**The Hon'ble Mr Justice Rakesh Kainthla, Judge.****Whether approved for reporting?¹ No****For the Petitioner : M/s Ajay Sipahiya & Tarun Mehta, Advocate.****For the Respondent : None.**

Rakesh Kainthla, Judge

The present revision is directed against the judgment dated 01.04.2026 passed by the learned Sessions Judge, Solan, (learned Appellate Court) vide which the judgment of conviction dated 14.07.2023 and order of Sentence dated 25.07.2023 passed by the learned Judicial Magistrate First Class Court No. 1, Solan, H.P. (learned Trial Court) were upheld. *(The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience)*

¹ Whether the reporters of the local papers may be allowed to see the Judgment? Yes.

2. Briefly stated, the facts giving rise to the present revision are that the police filed a charge sheet before the learned Trial Court for the commission of an offence punishable under Section 354C of the IPC. It was asserted that the informant and her friend went to use the public toilet at Solan on 10.04.2018 at about 12:00-12:30 p.m. The informant was inside the toilet and felt that she was being watched by someone from the window. She came out and informed her friend, who was waiting for her outside the toilet. The informant asked her friend to look for the person who was peeping inside the toilet, and she went inside the toilet. The informant's friend went outside and saw the accused peeping inside the toilet from the window. The accused jumped out of the window after seeing the informant's friend, but she confronted him. The accused could not give any satisfactory reply and went to his room located near the toilet. The accused was employed by the Municipal Committee of Solan as a Chowkidar of the toilet. The informant and her friend went to the room of the accused and asked him to come out, but he did not open the door. Many people gathered on the spot. The informant and her friend made a complaint to the committee about the act of the accused. But they did not take any action against the accused. The matter was reported to the police, and FIR (Ext.PW6/A) was registered. ASI

Kuldeep Kumar (PW7) investigated the matter. He visited the spot and prepared the site plan (Ext.PW7/A). He also took the photographs (Ext.P1 to Ext.P8) and issued a certificate (Ext.PW7/B). The statements of the informant and her friend (Ext.PW7/G and Ext.PW7/F) were recorded by the learned Magistrate. An application (Ext.PW7/C) was filed for obtaining the certified copies of the appointment and posting order of the accused. Sushant (PW5) produced the copy of the appointment letter (Ext.PW5/C), posting order (Ext.PW5/D), attendance register (Ext.PW5/E) and forwarding letter (Ext.PW5/A). The statements of witnesses were recorded as per their version, and 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, he was charged with the commission of an offence punishable under Section 354C of the IPC, to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined the informant (PW1) and her friend (PW2) as eyewitnesses. Sanjay Verma (PW3) is the owner of the workplace where the informant and her friend were employed. Balbir Singh (PW4) reached the spot after hearing the

noise. Sushant (PW5) produced the record. HC Kulwant (PW6) proved the FIR. ASI Kuldeep (PW7) investigated the matter.

5. The accused, in his statement recorded under Section 313 of the Code of Criminal Procedure (Cr.P.C.), denied the complainant's case in its entirety. He claimed that he was not present on the spot and was in his room with his family members. All the allegations were falsely made against him, and he was falsely implicated. He did not produce any evidence in his defence.

6. Learned Trial Court held that the informant's testimony was duly corroborated by her friend's testimony. The informant felt that someone was watching her from the window, and her friend saw the accused peeping from the window. There was nothing in the cross-examination of these witnesses to doubt their testimonies. Balbir Singh (PW4) saw the informant and her friend shouting outside the room of the accused and asking him to come out, and explain why he was peeping inside the toilet. The informant was sharing a private moment in the toilet and was not supposed to be watched by any person. Hence, the prosecution had proved its case beyond a reasonable doubt. Accordingly, the learned Trial Court convicted the accused of the commission of an offence punishable under Section 354C of the IPC, sentenced him

to undergo simple imprisonment for 3 months, pay a fine of ₹2,000/- and in default of payment of fine to undergo simple imprisonment for 15 days.

7. Being aggrieved by the judgment and order passed by the learned Trial Court, the accused filed an appeal, which was decided by the learned Sessions Judge Solan (learned Appellate Court). The Appellate Court concurred with the findings recorded by the learned Trial Court that the testimonies of the informant and her friend were satisfactory. There was nothing in their cross-examination to show that they were making false statements. Minor contradictions in their statements were not sufficient to discard their testimonies. The informant's friend had seen the accused peeping from the window of the toilet, and there was no reason to disbelieve her testimony. The informant expected privacy, which was violated by the act of the accused. There was no infirmity in the judgment and order passed by the learned Trial Court. Hence, the appeal was dismissed.

8. Being aggrieved by the judgments and order passed by the learned Courts below, the accused has filed the present revision asserting that the learned Courts below erred in appreciating the material on record. It was not proved beyond a

reasonable doubt that the accused was the person who had peeped inside the window. The informant could not identify the person who was peeping from the window. The testimony of the informant's friend should have been subjected to greater scrutiny. The evidence regarding her position was unsatisfactory, and the learned Courts below erred in relying upon her testimony. The post-occurrence conduct of the accused, as stated by the informant and her friend, was discrepant. The opening through which the accused had peeped into the toilet was not identified. The position of the window was not shown in the site plan, and it is not apparent from the site plan that it was possible to watch the informant from the window. A public path existed towards the rear portion of the toilet, and it was highly improbable that the accused would have watched the informant from a public path. Balbir Singh reached the spot after the incident, and his testimony could not have been used to convict the accused. The burden of proof was wrongly shifted to the accused. Therefore, it was prayed that the present revision be allowed and the judgments and order passed by the learned Courts below be set aside.

9. I have heard Mr Ajay Sipahiya and Tarun Mehta, learned counsel for the petitioner/accused.

10. Mr Ajay Sipahiya, learned counsel for the petitioner/accused, submitted that the learned Courts below erred in appreciating the material on record. There was insufficient evidence of the identity of the accused. There was no corroboration to the testimony of the informant's friend, and learned Courts below erred in convicting the accused solely upon her statement. The informant had not seen the accused peeping through the window. The spot map did not establish that it was possible to see inside the toilet from the window. Therefore, he prayed that the present revision be allowed and the judgments and order passed by the learned Courts below be set aside.

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

12. The submissions made by Mr Ajay Sipahiya, learned counsel for the petitioner in the Court and in the memorandum of revision, concentrate on the appreciation of the evidence by the learned Courts below, which is not permissible. It was laid down by the Hon'ble Supreme Court in *Malkeet Singh Gill v. State of Chhattisgarh*, (2022) 8 SCC 204: (2022) 3 SCC (Cri) 348: 2022 SCC OnLine SC 786 that a revisional court is not an appellate court and

it can only rectify the patent defect, errors of jurisdiction or the law. It was observed at page 207-

“10. Before advertng to the merits of the contentions, at the outset, it is apt to mention that there are concurrent findings of conviction arrived at by two courts after a detailed appreciation of the material and evidence brought on record. The High Court in criminal revision against conviction is not supposed to exercise the jurisdiction like the appellate court, and the scope of interference in revision is extremely narrow. Section 397 of the Criminal Procedure Code (in short “CrPC”) vests jurisdiction to satisfy 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. The object of the provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error that is to be determined on the merits of individual cases. It is also well settled that while considering the same, the Revisional Court does not dwell at length upon the facts and evidence of the case to reverse those findings.

13. This position was reiterated in *State of Gujarat v. Dilipsinh Kishorsinh Rao*, (2023) 17 SCC 688: 2023 SCC OnLine SC 1294, wherein it was observed at page 695:

“14. The power and jurisdiction of the Higher Court under Section 397 CrPC, which vests the court with the power to call for and examine records of an inferior court, is for the purposes of satisfying itself as to the legality and regularities of any proceeding 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 or the perversity which has crept in such proceedings.

15. It would be apposite to refer to the judgment of this Court in *Amit Kapoor v. Ramesh Chander* [Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460: (2012) 4 SCC (Civ) 687:

(2013) 1 SCC (Cri) 986], where scope of Section 397 has been considered and succinctly explained as under: (SCC p. 475, paras 12-13)

“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, bear 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.

13. Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order. The Court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injustice ex facie. Where the Court is dealing with the question as to whether the charge has been framed properly and in accordance with law in a given case, it may be reluctant to interfere in the exercise of its revisional jurisdiction unless the case substantially falls within the categories aforesaid. Even the framing of the charge is a much-advanced stage in the proceedings under CrPC.”

14. It was held in *Kishan Rao v. Shankargouda*, (2018) 8

SCC 165: (2018) 3 SCC (Cri) 544: (2018) 4 SCC (Civ) 37: 2018 SCC

OnLine SC 651 that it is impermissible for the High Court to reappreciate the evidence and come to its conclusions in the absence of any perversity. It was observed at page 169: ◇

“12. This Court has time and again examined the scope of Sections 397/401 CrPC and the grounds for exercising the revisional jurisdiction by the High Court. 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: (SCC pp. 454-55, para 5)

5. ... In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings to satisfy 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 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 amount to a gross miscarriage of justice. On scrutinising the impugned judgment of the High Court from the aforesaid standpoint, we have no hesitation in concluding that the High Court exceeded its jurisdiction in interfering with the conviction of the respondent by reappreciating the oral evidence. ...”

13. Another judgment which has also been referred to and relied on by the High Court is the judgment of this Court in *Sanjaysinh Ramrao Chavan v. Dattatray Gulabrao Phalke*, (2015) 3 SCC 123: (2015) 2 SCC (Cri) 19]. This Court held that

the High Court, in the exercise of revisional jurisdiction, shall not interfere with the order of the Magistrate unless it is perverse or wholly unreasonable or there is non-consideration of any relevant material, the order cannot be set aside merely on the ground that another view is possible. The following has been laid down in para 14: (SCC p.135)

“14. ... Unless the order passed by the Magistrate is perverse or the view taken by the court is wholly unreasonable or there is non-consideration of any relevant material or there is palpable misreading of records, the Revisional Court is not justified in setting aside the order, merely because another view is possible. The Revisional Court is not meant to act as an appellate court. The whole purpose of the revisional jurisdiction is to preserve the power in the court to do justice in accordance with the principles of criminal jurisprudence. The revisional power of the court under Sections 397 to 401 CrPC is not to be equated with that of an appeal. Unless the finding of the court, whose decision is sought to be revised, is shown to be perverse or untenable in law or is grossly erroneous or glaringly unreasonable or where the decision is based on no material or where the material facts are wholly ignored or where the judicial discretion is exercised arbitrarily or capriciously, the courts may not interfere with the decision in exercise of their revisional jurisdiction.”

15. This position was reiterated in *Bir Singh v. Mukesh Kumar*, (2019) 4 SCC 197: (2019) 2 SCC (Cri) 40: (2019) 2 SCC (Civ) 309: 2019 SCC OnLine SC 13, wherein it was observed at page 205:

“16. It is well settled that in the exercise of revisional jurisdiction under Section 482 of the Criminal Procedure Code, the High Court does not, in the absence of perversity, upset concurrent factual findings. It is not for the Revisional Court to re-analyse and re-interpret the evidence on record.

17. 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. The answer to the first question is, therefore, in the negative.”

16. Therefore, it is impermissible for this Court to re-appreciate the evidence unless there is a glaring mistake in the appreciation of the evidence by the learned Courts below, leading to a jurisdictional error.

17. The informant (PW1) stated that she and her friend had gone to the toilet of the Municipal Committee, Solan. Her friend was standing towards the rear side of the toilet, and she was inside the toilet. She noticed that the window of the toilet was broken. She felt that someone was watching her from the window. She went outside and told her friend about it. She asked her friend to go outside and find out if anyone was watching her. She again went inside the toilet. Her friend saw the accused peeping from a window into the toilet and confronted the accused, but he went inside his room. The informant and her friend went to the room of the accused and asked him to come out. The accused did not open the door. Many people had gathered on the spot. They reported the matter to the Supervisory Officer, but no action was taken. She stated in her cross-examination that the toilet was a public toilet.

The window was meant as a fitting for the exhaust fan. She admitted that she was inside the toilet and her friend was outside the toilet. She felt that somebody was watching her, but she could not say who was the person watching her. She admitted that a few boys wandered near the toilet. She was not aware that many drug addicts were caught near the toilet.

18. Her friend (PW2) stated that she and the informant had gone to the MC toilet. The informant went to use the toilet, and she waited for her outside. The informant came out and said that somebody was watching her. The informant asked her to look for any person and find out if anyone was watching her. She (PW2) went outside and saw the accused peeping inside the washroom from the window. She asked the informant to come out, and the accused ran away from the spot. She and her friend chased the accused, but he went to his room and bolted the door from inside. She and her friend asked the accused to come out, but he did not do so. She identified the accused as the person who had watched the informant. She stated in her cross-examination that she was standing outside the door of the toilet. She admitted that there was a public parking space on the back side of the path, located behind the toilet. She admitted that there are public stairs on the

spot towards the ground. She admitted that many people had gathered on the spot. She admitted that no complaint was made by any other person against the accused.

19. Learned Courts below had rightly pointed out that there was nothing in the cross-examination of the informant and her friend to show that they had any motive to depose falsely against the accused. Nothing was suggested to them to show any enmity against the accused. Therefore, the learned Courts below cannot be faulted for relying upon the testimonies of the informant and her friend.

20. The informant's friend categorically stated that she saw the accused peeping from the window inside the toilet. She and the informant stated that the accused went inside his room and bolted the door from inside. They asked him to come out, but the accused did not come out. This version is duly corroborated by Balbir Singh (PW4), who stated that he heard some noise and saw that a few persons had gathered near the room of the accused. Two girls were shouting at the accused as to why he was peeping inside the toilet from the window. She identified the girl in the photograph. He admitted in the cross-examination that the accused was not present on the spot at the time of his arrival.

21. His testimony corroborates the testimonies of the informant and her friend that the accused had bolted the room and did not come out after he was confronted about his acts. The learned courts below had rightly held that this conduct of the accused pointed towards his guilt; otherwise, he would have come out and confronted the informant and her friend by saying that they were lying and he had not peeped inside the toilet from the broken window.

22. It was submitted that the place of the incident was a public place and the incident is inherently improbable. No person would be at the window in the presence of the public. This submission will not help the accused. There is no evidence that any person was present on the spot who could have seen the accused peeping from the toilet. Secondly, the accused was posted as a Chowkidar, and he could have easily provided an explanation that he was looking for something in the window, and no person would have been aware that it was possible to look inside the toilet from the broken window. Therefore, the incident cannot be called inherently improbable.

23. It was submitted that there are discrepancies in the statements of the informant and her friend. The informant stated

that when she was using the toilet, her friend was standing towards the rear side, whereas her friend stated that she was waiting outside the door of the toilet and proceeded towards the rear side only after the informant told her that somebody was watching her. This contradiction is no contradiction at all because the informant was inside the toilet and could not have known the location of her friend. The statement made by her that her friend was standing near the rear of the toilet was merely a guesswork because she never saw the location of her friend when she was inside the toilet. Her friend also stated that when the informant came out, she was at the rear. Therefore, there is no real contradiction between the testimonies of the informant and her friend.

24. The informant's friend stated that the informant had told her that somebody was watching. Informant's friend (PW2) asked her to go inside the toilet, and she proceeded to catch the person. The informant stated that her friend went towards the rear to ascertain who was peeping, and she was inside the washroom at that time. It was submitted that the statements of the informant and her friend contradicted each other. This submission cannot be accepted. There is no inconsistency in the

statements of these two witnesses, as both of them have categorically stated that the informant went inside the toilet and her friend went towards the rear to find out if anyone was watching the informant.

25. The informant stated that the accused went inside the room after he was confronted, whereas her friend stated that the accused had fled away, and both the informant and her friend chased him. It was submitted that this is a major contradiction in the statements of the witnesses. This submission is only stated to be rejected. When an incident is narrated by two different persons, it is narrated using different words. If a person says that another person went away quietly, it is equivalent to the person having fled away from the spot, and much cannot be made out of the use of different words by the witnesses.

26. It was submitted that the Investigating Officer had not shown the position of the window in the site plan, nor whether the window was visible from inside. This submission will not help the accused because it would be a case of a defective investigation and cannot be used to discard the prosecution's version².

² Meena Devi v. State of H.P., 2026 SCC OnLine HP 3974

27. It was submitted that the prosecution had failed to associate any independent witness, which made the prosecution's case highly suspect. This submission cannot be accepted. There is no evidence that any independent person was present on the spot. The people gathered after the informant and her friend started yelling at the accused and asked him to come out. The prosecution examined Balbir Singh, who was an employee of the MC and was more likely to favour the accused, who was another employee of the MC, rather than the informant and her friend. Therefore, Balbir Singh was an independent person, and the prosecution's case cannot be doubted because the other witnesses were not examined.

28. Learned Appellate Court had rightly pointed out that the use of the toilet by the informant, who was a woman, was a private act; she was expected to be alone while performing this private act. The act of the accused of peeping inside the toilet from the broken window violated her privacy, and the learned Trial Court had rightly held him guilty of the commission of an offence punishable under Section 354C of the IPC.

29. Therefore, there is no infirmity in the judgments passed by learned Courts below convicting the accused of the

commission of an offence punishable under Section 354C of the IPC.

30. Learned Trial Court sentenced the accused to undergo simple imprisonment for 3 months. The offence punishable under Section 354C of the IPC is punishable with imprisonment which shall not be less than 1 year, but which may extend to 3 years. Therefore, the learned Trial Court had imposed a sentence which was less than what had been prescribed by the legislature, and the learned Trial Court had shown excessive sympathy to the accused. No appeal has been filed by the State for enhancing the sentence, and no interference is required with the sentence in the revision preferred by the accused.

31. Thus, the judgments and order passed by the learned Courts below do not suffer from any infirmity, and no interference is required with them. Hence, the present revision fails and is dismissed.

32. The present revision stands disposed of, and so are the pending miscellaneous application(s), if any.

33. The record of the learned Courts below be returned with a copy of the judgment.

(Rakesh Kainthla)

10th July, 2026
(Nikita)

Judge

High Court of H.P.