CNR No: PHHC011660402026
2026:PHHC:186535

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-57318-2026 (O&M)

Suresh Kumar and Others

… Petitioner

Versus

State of Haryana and Another

... Respondents

-.-

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. Aman Pal, Senior Advocate along with
Mr. Rishabh Chaudhary, Advocate,
Ms. Neha Rani, Advocate
for the petitioners.

Mr. Karan Veer Singh, Sr. D.A.G. Haryana.

Mr. P.S. Ahluwalia, Senior Advocate with
Mr. Kushagra Beniwal, Advocate,
Ms. Bhavi Kapur, Advocate,
Ms. Isha Mehta, Advocate,
Mr. Kushagar Mahajan, Advocate
for the respondent No.2/complainant.

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1.	*The date when the judgment is reserved.*	***06.10.2026***
2.	*The date when the judgment is pronounced.*	***08.10.2026***
3.	*The date when the judgment is uploaded.*	***08.10.2026***
4.	*Whether only operative part of the judgment is pronounced or full judgment is pronounced.*	***Full***
5.	*The delay, if any, of the pronouncement of full judgment, and reasons thereof.*	***Not applicable***

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VIRINDER AGGARWAL, J.

1. Petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (erstwhile Section 482 of the Code of Criminal Procedure, 1973), seeking quashing of the impugned order dated 14.09.2026 (Annexure P-1), passed by the Additional Sessions Judge, Kurukshetra, in Criminal Revision No. 6 of 2026, titled "Gulshan vs. Suresh Kumar and others", whereby the revision petition preferred against dismissal of the Protest Petition filed by the respondent-complainant and acceptance of the cancellation report qua the petitioners, vide order dated 31.10.2025 (Annexure P-2) passed by the Chief Judicial Magistrate, Kurukshetra, has been allowed and the petitioners have been summoned as accused, allegedly in contravention of the settled principles of law, and for staying further proceedings.

DETAILS OF FIR:-

Particulars	Details
FIR No. & Date	**744 dated 21.10.2014**
Sections Invoked	**Sections 148, 149, 323, 324, 325, 326, 447 and 506 IPC**, corresponding to **Sections 191(3), 190, 115(2), 118(1), 117(2), 118(2), 329(3) and 351 BNS, 2023**
Police Station	**Thanesar, District Kurukshetra, Haryana**

1.1. The present petition further seeks appropriate protection against continuation of the consequential proceedings arising from the impugned order, in the interest of justice.

2. Brief facts of the present case are that FIR No.744 dated 21.10.2014 (Annexure P-3) was registered under Sections 148, 149, 323, 324, 325, 326, 447 and 506 IPC at Police Station City Thanesar, Kurukshetra, at the instance of respondent No.2-Gulshan, regarding an

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alleged occurrence dated 30.09.2014. Prior thereto, FIR No.700 dated 01.10.2014 (Annexure P-4) had been registered concerning the same occurrence, containing a materially divergent version. After investigation, a cancellation report dated 28.11.2014 (Annexure P-6) was submitted, followed by further investigation pursuant to order dated 10.03.2023, with subsequent reports placed on record. Vide detailed order dated 31.10.2025 (Annexure P-2), the Chief Judicial Magistrate accepted the cancellation report and dismissed the protest petition after considering the rival versions, medical material, delay, previous animosity and other relevant circumstances. However, vide impugned order dated 14.09.2026 (Annexure P-1), the Revisional Court allowed the revision, set aside the said order and directed issuance of summons to the petitioners. The grievance of the petitioners is that such interference amounts to impermissible re-appreciation of evidence in revisional jurisdiction, without demonstrating any patent illegality, perversity, jurisdictional error or material irregularity warranting interference.

3. The principal question that arises for consideration in the present petition is whether the Revisional Court, while exercising its limited revisional jurisdiction, has transgressed the permissible contours thereof by effectively assuming and exercising the jurisdiction vested in the Magistrate, particularly by re-appreciating the material on record and directing issuance of process in substitution of the reasoned determination already rendered by the Court of first instance.

4. Learned Senior counsel for the petitioners contends that the impugned order suffers from a fundamental jurisdictional infirmity, inasmuch as the Revisional Court has virtually assumed and exercised the

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jurisdiction vested in the Magistrate by itself directing summoning of the petitioners to face trial for the aforesaid offences. It is submitted that revisional jurisdiction is supervisory and corrective in nature and cannot be transformed into a forum for fresh factual adjudication or a substitute for the jurisdiction of the Court of first instance. The Revisional Court, it is argued, has impermissibly undertaken a re-appraisal of the material on record, thereby conducting a mini-trial, which is wholly beyond the permissible scope of revisional scrutiny; at the highest, the matter could have been remitted to the Magistrate for fresh consideration in accordance with law. Learned Senior counsel relies upon ***Rajendra Rajoriya vs. Jagat Narain Thapak and Another, 2018 AIR SC 1229***, wherein the Hon'ble Supreme Court delineated the contours of revisional jurisdiction, as also ***Fakir Chand vs. State of Haryana and Another, 2019 Law Finder (P&H) 7377***, ***Smt. Maheshwari Devi and Others vs. Smt. Buddhi Devi, 2023 Law Finder (Uttarakhand) 1520*** and ***Sheikh Abdul Aziz and Others vs. State of U.P. and Others, 1995 Law Finder (Allahabad) 552***, and submits that the impugned order, having travelled beyond such settled parameters, warrants interference. Accordingly, setting aside of the impugned order has been prayed for.

5. Whereas learned counsel appearing for respondent No.2 has controverted the aforesaid submissions and contended that the precise issue raised in the present petition already stands authoritatively adjudicated by a Division Bench of this Court in ***Bal Kishan Jain and Others vs. Indian Overseas Bank and Others, 1981 Law Finder (P&H) 618*** and ***1981 Criminal Law Journal 796***, wherein a specific question was referred for consideration, namely:-

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> "Whether Sections 398 and 399 of the Code of Criminal Procedure, 1973 envisage, within their ambit, a direction to the Trial Magistrate to summon persons as accused before him or, if already so summoned, to frame charge against them and put them on trial?"

5.1. The aforesaid question was answered in the affirmative, with the Division Bench holding that the power to issue such a direction falls squarely within the ambit of Section 399 read with Section 401(1) Cr.P.C., which constitutes the repository of the wider revisional powers vested in the Court of Session and the High Court. Learned counsel further places reliance upon the judgment of the **Madhya Pradesh High Court in *Hansraj Sharma @ Hansu vs. Shivcharan Sharma, 2004 Law Finder (MP) 567***, wherein, relying upon the aforesaid Division Bench judgment in ***Bal Kishan Jain's*** case (supra), the orders passed by the Court of Session were upheld. Reliance has also been placed upon ***Ashok Maheshwari, Rajkamal Prakashan (P) Ltd. vs. Dinesh Puranik and Another, 2006(23) RCR(Criminal) 783***, in support of the proposition advanced. On the strength of the aforesaid judicial pronouncements, it is contended that the Revisional Court, while exercising jurisdiction under the statutory framework, was competent to issue appropriate consequential directions, including a direction for summoning of the persons against whom a prima facie case was found to exist. It is, accordingly, prayed that the present petition be dismissed.

6. Having heard learned counsel for the parties and, with their able assistance, having meticulously examined the paper-book, the principal issue arising for consideration in the present petition may appropriately be examined in the backdrop of the statutory scheme

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governing revisional jurisdiction. For adjudication of the controversy involved herein, Sections 397, 398, 399 and 401 Cr.P.C. assume particular significance and, therefore, are reproduced hereunder:-

Section 397-Calling for records to exercise powers of revision

(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying 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, and may, when calling for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.

Explanation.—All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 398.

(2) The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them.

Section 398 — Power to order inquiry

On examining any record under section 397 or otherwise, the High Court or the Sessions Judge may direct the Chief Judicial Magistrate by himself or by any of the Magistrates subordinate to

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him to make, and the Chief Judicial Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 203 or sub-section (4) of section 204, or into the case of any person accused of an offence who has been discharged:

Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of showing cause why such direction should not be made.

Section 399 — Sessions Judge's powers of revision

(1) In the case of any proceeding the record of which has been called for by himself, the Sessions Judge may exercise all or any of the powers which may be exercised by the High Court under sub-section (1) of section 401.

(2) Where any proceeding by way of revision is commenced before a Sessions Judge under sub-section (1), the provisions of sub-sections (2), (3), (4) and (5) of section 401 shall, so far as may be, apply to such proceeding and references in the said sub-sections to the High Court shall be construed as references to the Sessions Judge.

(3) Where any application for revision is made by or on behalf of any person before the Sessions Judge, the decision of the Sessions Judge thereon in relation to such person shall be final and no further proceeding by way of revision at the instance of such person shall be entertained by the High Court or any other Court.

Section 401 — High Court's powers of revision

(1) In the case of any proceeding the record of which has been called for by itself or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 386, 389, 390 and 391 or on a

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Court of Session by section 307, and, when the Judges composing the Court of Revision are equally divided in opinion, the case shall be disposed of in the manner provided by section 392.

(2) No order under this section shall be made to the prejudice of the accused or other person unless he has had an opportunity of being heard either personally or by pleader in his own defence.

(3) Nothing in this section shall be deemed to authorise a High Court to convert a finding of acquittal into one of conviction.

(4) Where under this Code an appeal lies and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of the party who could have appealed.

(5) Where under this Code an appeal lies but an application for revision has been made to the High Court by any person and the Court is satisfied that such application was made under the erroneous belief that no appeal lies, the High Court may, if it is of opinion that the interests of justice so require, treat the application for revision as a petition of appeal and deal with the same accordingly.

(6) The provisions of this section shall not be deemed to have been affected by the provisions of section 399.

(7) Nothing in this section shall be deemed to authorise the High Court to call for the record of any proceeding in which a revision application has been made by any person before the Sessions Judge.

7. Learned Senior counsel for the petitioner has primarily placed reliance upon the judgment of the Hon'ble Supreme Court in ***Rajendra Rajoriya's*** case (supra). In the said case, the Judicial Magistrate had dismissed the criminal complaint on the ground that the material available on record did not constitute sufficient evidence in support of the allegations

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levelled therein. Aggrieved thereof, a revision petition was preferred before the Court of Session, which allowed the same, set aside the order of the Judicial Magistrate and remanded the case with a direction that, if considered necessary, further inquiry be undertaken and, keeping in view the findings recorded in the revisional order, an appropriate order be passed regarding registration of the complaint and summoning of the respondents. Thereafter, vide order dated 23.01.2013, the Judicial Magistrate took cognizance of the offences, principally proceeding on the premise that the Revisional Court had already recorded a prima facie finding that sufficient grounds existed for initiating proceedings against the non-applicants.

7.1. The aforesaid order, as also the initial order of remand passed by the Revisional Court, came to be challenged before the High Court. The High Court allowed the revision petition and quashed the complaint, inter alia, on the ground that the Revisional Court could not itself have taken cognizance of the offence and that the course adopted was contrary to the statutory scheme of Section 398 Cr.P.C. The matter thereafter reached the Hon'ble Supreme Court, before which two questions arose for consideration, pertaining to the legality of the order of remand passed by the Court of Session and the consequential order passed by the Judicial Magistrate taking cognizance of the offence. Insofar as the legality and permissible scope of the order passed by the Revisional Court is concerned, the Hon'ble Supreme Court, in paragraph No.13 of the judgment, held as under:-

> 13. The extent of the revisionary powers inter alia, is provided under Section 399 read with section 401 of Cr.P.C., 1973 It is clear from the aforesaid provisions that Section 398 has to be read along with

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> other Sections which are equally applicable to the revision petitions filed before the Sessions Court. Section 398 only deals with a distinct power to direct further inquiry, whereas Section 397 read with Section 399 and Section 401 confers power on the revisionary authority to examine correctness, legality or propriety of any findings, sentence or order. The powers of the revisionary court have to be cumulatively understood in consonance with sections 398, 399 and 401 of Cr.P.C., 1973.

8. Upon a careful reading of the judgment in ***Rajendra Rajoriya's*** case (supra), it is evident that the Hon'ble Supreme Court found that the Revisional Court had not itself passed any order taking cognizance of the offence. The observations made by the Court of Session were held to be only in the nature of reasons or justification for remanding the case to the Judicial Magistrate and, therefore, could not be construed as an act of taking cognizance by the Revisional Court. Thus, the said judgment, properly understood in its factual and legal context, does not lay down any absolute proposition that a Revisional Court, while exercising its revisional jurisdiction, is wholly divested of the power to issue a direction relating to taking of cognizance or summoning of an accused. The precise question arising in the present case, therefore, requires examination in the light of the authoritative pronouncement of the Division Bench of this Court in ***Bal Kishan Jain's*** case (supra), wherein the very issue involved herein was specifically referred for consideration and the question framed before the Division Bench was as under:-

> "Whether sections 398 and 399 of the Code of Criminal Procedure, 1973, envisage within their ambit a direction to the trial Magistrate to summon the persons accused before him or if already so summoned to

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frame a charge against them and put them on trial is the significant question which has necessitated this reference to the Division Bench."

8.1. After an elaborate consideration of the statutory scheme and the scope of revisional jurisdiction, the Division Bench of this Court, in paragraphs Nos.20 to 22 of ***Bal Kishan Jain's*** case (supra), has authoritatively examined the precise issue and recorded its conclusions as under:-

> 20. Though I have held as above it is equally manifest, as observed earlier, that now the arena of controversy has been virtually effaced by the enactment of the Code of Criminal Procedure 1973 whereby under Section 399, the Court of Session in its revisional jurisdiction has now been clothed with all or any of the powers which may be exercised by the High Court under Section 401 (1). Herein the matter does call for a brief historical perspective. The necessity for having a separate provision like Section 436 in the earlier Code is manifest. Thereunder the Court of Session in its revisional jurisdiction was primarily a reporting or a recommendatory Court and the basic revisional powers were vested in the High Court alone under Section 439. However, for the limited purpose of meeting the situation where a complaint has been wrongly dismissed as a whole or an accused had been wrongly discharged the Court of Session was given a larger power at par with the High Court, namely, that of directing further enquiry into such cases. This was done by virtue of Section 436 of the old Code. Within this narrow field it was not necessary for the Court of Session to report the matter to the High Court but it could in its own right direct further enquiry in sharp distinction to other cases where it could only recommend to the High Court for necessary action in the latter's revisional jurisdiction. Even though

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under the new Code the revisional powers of the Court of Session by virtue of Section 399 have been substantially equated with those of the High Court under Section 401(1) a provision in pari materia with Section 436 of the old Code has been ratained in the shape of Section 398 of the New Code. Undoubtedly now the revisional powers of the Court of Session under Sections 398 and 399 would in some field overlap each other. It is patent, however, that the Court of Session is now clothed with the revisional powers contained both in Sections 398 and 399 of the new Code.

21. Herein the significant change that has been brought about by the enactment of the new Code is that whereas earlier apart from directing further enquiry the, Court of Session could only report, the matter to the High Court for appropriate orders under its revisional jurisdiction but now it has been clothed with virtually the same powers which the High Court can exercise under Section 401 (1) of the new Code. This in substance effaces very largely the sharp distinction that existed under the old Code betwixt the revisional powers of the Court of Session and those of the High Court. Now the Court of Session is by and large at par with the High Court in the exercise of the revisional jurisdiction. Consequently the Court of Session also has the same power to direct that an accused person wrongly discharged be summoned, or that a charge be framed against him and he be brought to trial as earlier the High Court undoubtedly could do under Section 439. Once that is so, it obviously becomes academic as to which provision is to be invoked for the exercise of such power. It is well settled by a long line of precedent that the revisional powers under the earlier Code contained in Sections 435 to 439 were to be read and construed together and not in isolated watertight compartments. What was said with regard to those provisions

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pertaining to the revisional jurisdiction would ring equally true with the corresponding provisions in the new Code. Therefore Sections 398 and 399 of the new Code have inevitably to be read together as one integral whole and both of them indeed supplement and dovetail into each other. Therefore, once a case is before the Court of Session in its revisional jurisdiction then the power under both Sections 398 and 399 can be exercised by it and it is immaterial and academic to investigate as to which specific provision has been actually invoked.

22. To conclude it must in strictness be held that the words'further enquiry' in Section 398 do not envisage within it the power to direct that person wrongly discharged be summoned or that a charge be framed against him and he be put on trial. However, such a power of direction is wholly within the ambit of Section 399 read with Section 401 (1) of the Code which now is the repository of the larger powers vested in the Court of Session. Therefore a direction of this nature can be legally given thereunder. The answer to the question formulated at the outset, there fore, has to be rendered in the terms aforesaid.

9. The findings recorded by the Division Bench of this Court make it abundantly clear that the revisional jurisdiction conferred upon the Court of Session and the High Court under Sections 399 and 401 Cr.P.C. is of considerable amplitude. The Division Bench has categorically recognised that, subject to the limitations prescribed by the Code, the Revisional Court possesses the jurisdiction to issue appropriate consequential directions, including a direction concerning taking of cognizance and summoning of the persons against whom a *prima facie* case is found to exist. The aforesaid enunciation of law has subsequently

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been followed by the Madhya Pradesh High Court in ***Hansraj Sharma @ Hansu's*** case (supra) as well as in ***Ashok Maheshwari, Rajkamal Prakashan's*** case (supra).

9.1. A conjoint and meaningful reading of Section 401 Cr.P.C. further demonstrates that the Code itself expressly delineates the limitations on the exercise of revisional jurisdiction. In particular, sub-section (3) of Section 401 Cr.P.C. imposes a specific statutory embargo upon the Revisional Court from converting a finding of acquittal into one of conviction. At the same time, sub-section (1) of Section 401 Cr.P.C. expressly confers upon the High Court, in exercise of its revisional jurisdiction, the power to exercise, so far as may be applicable, any of the powers conferred upon a Court of Appeal by Sections 386, 389, 390 and 391 Cr.P.C. or upon a Court of Session by Section 307 Cr.P.C. The legislative scheme, therefore, unmistakably indicates that the revisional jurisdiction is not confined to a mere examination of procedural irregularities, but extends to correcting jurisdictional errors, material irregularities and manifestly erroneous conclusions, wherever interference is warranted within the parameters of law.

9.2. Section 386 Cr.P.C., in turn, confers upon the Appellate Court the power, inter alia, to alter or reverse the order which is the subject matter of the appeal. Consequently, when the provisions of Section 401 Cr.P.C. are read in conjunction with the appellate powers incorporated therein, it becomes manifest that the Revisional Court is competent, within the permissible statutory contours, to set aside an order passed by the Magistrate suffering from a jurisdictional error, material irregularity or manifest illegality and to pass such consequential order as may be

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warranted for securing the ends of justice. The revisional jurisdiction, therefore, cannot be construed in a manner which renders the express conferment of such powers under Section 401(1) Cr.P.C. otiose.

9.3. In the present case, the Revisional Court, upon examining the material available on record and finding sufficient grounds to proceed against the petitioners, has exercised jurisdiction within the statutory framework governing revisional powers. The impugned order does not disclose any patent illegality, jurisdictional transgression or material irregularity warranting interference in exercise of the inherent jurisdiction of this Court. The contention that the Revisional Court was altogether denuded of the power to issue a direction for summoning, therefore, cannot be accepted in view of the binding pronouncement of the Division Bench in ***Bal Kishan Jain's*** case (supra). Consequently, the impugned order passed by the learned Additional Sessions Judge does not suffer from any patent illegality or material irregularity and calls for no interference by this Court. The present petition is, accordingly, **dismissed**.

10. In view of the final adjudication of the principal proceedings, all pending miscellaneous applications, if any, arising therefrom or ancillary thereto, shall stand disposed of accordingly. No separate or further orders are warranted in respect thereof, the issues raised therein having rendered themselves infructuous and academic in consequence of the final disposal of the principal matter.

(VIRINDER AGGARWAL)
JUDGE

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Whether reasoned / speaking? Yes / No
Whether reportable? Yes / No

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