

Workshop For Additional District Judges
on
“Criminal Justice Administration”
Appellate and Revision Jurisdiction of District Judges



Presented by :

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- **APPEAL – ‘Statutory Right’ provided in Cr.P.C.**
- **REVISION – Completely Discretionary.**
- **SECTION 397 – Court “may” call for ‘R & P’.**

REVISION – Power Can Be Exercised Suo-Motu

A sort of supervisory power -

- To prevent miscarriage of justice;
- To satisfy itself as to correctness, legality or propriety of any finding, sentence or order

And

- As to regularity of any proceeding.

Can be exercised when :-

- Glaring defect, resulting in grave miscarriage of justice;
- Glaring defect in procedure;
- Manifest error on the point of law.

“REVISION” : Scope Limited

- Power to be exercised only for correction of errors relating to exercise or non-exercise of jurisdiction.

OR

- Some illegality or material irregularity affecting prejudicially rights of the parties.

In Exercise of Revisional Power

- Not permissible to go into the findings of fact recorded by Lower Court;
- Not to substitute its own view;
- Simply because another view is possible;
- Unless, view taken is impossible.

Example of Revisional Power

[Ramesh Chandra Vs. A.P. Jhaveri, AIR 1973 SC 84]

When non-compoundable offence is permitted to be compounded – acquittal illegal. Hence, in ‘Revision’, can be set aside.

No 'Revision' possible against Interlocutory Order

Interlocutory Order – purely interim
or
of temporary nature.

Which do not affect rights and liabilities of parties
[Jarnal Singh Vs. State of Rajasthan, 1972 Cri.L.J. 810]

Passed at interim stage to advance cause of justice.
[Amarnath Vs. State of Haryana, AIR 1977 SC 2185]

Order Not Interlocutory

- If order result in culmination of the proceedings;
- If it determines rights of the parties finally.

[K.K. Patel Vs. State of Gujarat, (2000) 6 SCC 195]

➤ An order framing charge – Interlocutory

But

➤ An order refusing to frame charge – Not
Interlocutory

[V.C. Shukla Vs. State, AIR 1980 SC 962]

‘REVISION’ - cannot be
dismissed for default.

Court has to decide it
on merits.

‘APPEAL’ – Jurisdiction Much Wider

All grounds that may be urged in support of Revision can be urged in appeal, but not vice-versa.

[Bindeshwari Prasad Vs. State of Bihar, AIR 2002 SC 2907]

Duty of Appellate Court

➤ To re-appraise the evidence itself;

And

➤ Cannot dispose of Appeal upon appraisal of evidence of Trial Court.

[Rama Vs. State of Rajasthan, (2002) 4 SCC 571]

Duty of Appellate Court

- To consider 'Appeal' on merits even in absence of Accused or his Counsel.
 - Court should appoint 'Advocate' from Legal Aid Panel
- OR***
- As '*Amicus Curie*'
- And***
- To decide it on merits.

Powers of Appellate Court in Judgment against Conviction - As wide as Trial Court

- As Final Court of facts, it has the duty to examine evidence and arrive at its own finding.
- To deliver a reasoned judgment showing application of mind to material questions of facts and law.
- Failure to do so – Judgment not sustainable.

Section 378

Appeal in case of acquittal to Sessions Court – only in case where offence is cognizable and not bailable.

Against Conviction

Section 375 :-

No Appeal, when Accused pleads guilty; except as to extent or legality of sentence.

Section 376 :-

No Appeal in petty cases – sentence not exceeding 3 months or fine not exceeding Rs.200/-, or, both.

Section 377

Appeal by State :-

When sentence – inadequate, shall not enhance it, without giving a reasonable opportunity of showing cause to Accused.

At that time, Accused can plead for his acquittal or for reduction of sentence.

Powers of Appellate Court

Section 389 : Suspension of sentence during appeal.

Section 390 : Arrest of Accused in appeal against acquittal.

Section 391 : May take further evidence or direct Trial Court to take it – to be exercised in exceptional cases
[Zahira Shaikh – Best Bekori Case].

Retrial : Can send the case to Trial Court for ‘Retrial’ – but not to be ordered for writing a fresh judgment or to fill up lacunae.

Powers of Appellate Court against Conviction

- Can set it aside and acquit Accused.
- Can reduce charge.
- Can reduce punishment.
- Can enhance punishment after giving opportunity to the Accused.

In Appeal against Acquittal

Caution is the watchword for two reasons :-

- Trial Court has occasion to watch demeanor of the witnesses.
- Presumption of innocence double - fortified, strengthened and re-inforced.

In Appeal against Acquittal

- Jurisdiction circumscribed by limitation that no interference to be made unless the approach of Trial Court is vitiated by some manifest illegality;

OR

- Conclusion / finding 'perverse' – against evidence on record.

Where two views are possible on re-appraisal

And

View taken by Trial Court is plausible,

Cannot legally interfere, even if that view is erroneous.

[Tota Singh Vs. State of Punjab, AIR 1987 SC 1083]

Interference to be rare and in exceptional cases,
only when view taken by Trial Court is;

- Palpably wrong,
- Manifestly erroneous,

OR

- Demonstrably unsustainable.

Power to Prevent Failure
OR
Miscarriage of Justice

[Ashok Kumar Vs. State of Rajasthan, AIR 1990 SC 2134]

Exercise of power must in case perversity,
otherwise existence of power shall be rendered
meaningless.

Full power to review evidence, but, for that, must come to conclusion that finding recorded by Trial Court is contrary to evidence on record.

[C. Anthony Vs. K.G. Raghavan, AIR 2003 SC 183]

