

CRIMINAL REVISIONL JURISDICTION

By: Justice Ved Prakash, chairman
M.P. Law Commission

Revisional Jurisdiction- Nature

- Jurisdiction exercised by the High Court and Sessions Judge **under S. 399/401** is **supervisory jurisdiction** which gives a very wide scope to the revisional Court to test the **correctness, legality or propriety of any finding, sentence or order**. Such Court may also interfere to examine the **regularity of any proceedings**.

Revisional Jurisdiction- Concurrent and Coextensive

- High Court and the Sessions Judge are invested with **concurrent and co-extensive revisional jurisdiction** over subordinate Criminal Courts within their respective jurisdiction.
- That is why in a case where the revisional jurisdiction has been exercised either by the High Court or the Sessions Judge, the **jurisdiction of the other to entertain a revision petition on the same subject-matter is expressly ousted by Sub-section (3) of [Section 397](#) and Sub-section (3) of [Section 399](#)** of the Code.

Revisional Jurisdiction- Express Limitations

- The revisional powers are not exercisable in relation to any **interlocutory order** passed in any appeal, inquiry or trial. **S.397(2)**.
- A person is allowed to file **only one application for revision** either to the Court of Session or to the High Court if once such an application is made to one court, no further application by the same person shall be entertained by the other court. **S. 397 (3)**.

Revisional Jurisdiction- Express Limitations

- No order to be made in revision against an accused or other person unless he has had an **opportunity of being heard. S.401(2)**
- The court exercising revisional powers is not authorized to **convert a finding of acquittal into one of conviction** into one of conviction. **S.401(3)**
- In such cases **where an appeal lies** but there is no appeal brought in, originally no proceeding by way of revision shall be entertained at the instance of the party who would have appealed. **S.401(4).**

Manner of Exercise of Discretion:

- **Normally to 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. (see **Amit Kapoor v. Ramesh Chander[(2012) 9 SCC 460]**).
- Only in the event of a **glaring defect** in the **procedural aspect** or there being a **manifest error** on a point of law and thus a **flagrant miscarriage of justice** exercise of revisional jurisdiction under the statute ought to be called for.

Manner of Exercise of Discretion:

- **No Re-appreciation:** Ordinarily it is not open for the revisional Court to **re-appreciate** the evidence in its revisional jurisdiction. (**State of Karnataka v. Appa Balu Ingale, AIR 1993 SC 1126 (Taking water from the well)**)
- Where **two views are reasonably possible** and the lower court has taken the view in favour of the accused, the revisional Court should be slow in interfering in exercise of revisional jurisdiction suo motu. (**M. Sainuddin v. Food Inspector, (2001) 9 SCC 216**]

Exercise Of Power Of Appellate Court- : 401.1 Cr.P.C.

- Section 401(1) Cr. P.C. enables the revisional Court to exercise all **powers of Appellate Court, (S 386) if necessary**, in aid of power of superintendence or supervision **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 proceeding.
- **Section 401, Cr. P.C. conferring powers of Appellate Court on the Revisional Court is with the above limited purpose.** The provisions contained in Section 395 to Section 401, Cr. P.C. read together **do not indicate** that the revisional power of the High Court **can be exercised as a second appellate power.**

(STATE OF MAHARASHTRA, v JAGMOHAN SINGH , AIR 2004 SC 4412

Power to Enhance Sentence—S.377 and 401

- Power not taken away by provision u/s 377 Cr.P.C. for **appeal against inadequacy of sentence** by the State Government or the Central Government---
- **Held: The Code of Criminal Procedure, 1973 has not abolished the High Court's power of enhancement of sentence by exercising revisional jurisdiction suo motu. .(Eknath Shankarrao Mukkawar v. State of Maharashtra, AIR 1977 SC 1177 .**

Scope of Interference in Acquittal

- Apex Court in the matter of **Akalu Ahir and others vs. Ramdeo Ram, AIR 1973 SC 2145** held: **Can interfere with finding of acquittal in revision in the following categories of cases :**
- where the trial Court has **no jurisdiction to try the case**, but has still acquitted the accused;
- where the trial Court has **wrongly shut out evidence** which the prosecution wished to produce;

Scope of Interference in Acquittal

- where the Appellate Court has **wrongly held the evidence** which was admitted by the trial Court to be **inadmissible**;
- where the **material evidence has been overlooked** only (either?) by the trial Court or by the Appellate Court; and
- where the acquittal is based on the **compounding of the offence which is invalid under the law.**

INTERLOCUTORY ORDER ?

- “An order rejecting the plea of the accused on a point which, when accepted, **will conclude the particular proceeding**, will surely be not an interlocutory order within the meaning of section 397 (2).” **Madhu Limaye v. State of Maharashtra (AIR 1978 SC 47)**
- The term 'interlocutory order' used in the Code of Criminal Procedure has to be given a very liberal construction in favour of the accused in order to ensure complete fairness of the trial and the revisional power of the High Court or the Sessions Judge could be attracted if the order was not purely interlocutory but intermediate or quasi final. -& **V.C. Shukla v. State through CBI AIR 1980 SC 962**

INTERLOCUTORY ORDER ?

- The term "interlocutory order" in s. 397(2) denotes **orders of a purely interim or temporary nature which do not decide or touch the important rights or liabilities of the parties.** Any order which substantially affects the right of the accused, or decides certain rights of the parties cannot be said to be an interlocutory order .
- **Compelling the appellants to face a trial without proper application of mind by the Magistrate,** cannot be held to be an interlocutory matter but one which decided a serious question as to the rights of the appellants.) **AMAR NATH V. STATE OF HARYANA, (1977) 4 SCC 137**

Revision at the Instance of Third Party

- Under Sec. 401 Cr.P.C., the Court has suo motu power of revision, if that be so, the question of the same being invoked at the instance of an outsider would not make any difference because ultimately it is the power of revision which is already vested with the High Court statutorily that is being exercised by the High Court. In this regard, we may note the following judgment of the apex Court in the case of **Nadir Khan v. The State (Delhi Administration), (AIR 1976 SC 2205)**

Dismissed For Default :

- Rule laid down for criminal appeal also applies to criminal revision.
- Criminal revision **cannot be dismissed for default** or for want of prosecution – (**Madan Lal Kapoor v. Rajiv Thapar and others (2007) 7 SCC 623**)

Whether Sessions Judge can enhance sentence in exercise of revisional jurisdiction-

- **Yes : S. Balasubramanian vs The State Of Tamil Nadu, (Madras High Court) Rep on 19 April, 2012 (DB on a reference)**
- **Identical view-1978 CrLJ 825Bombay,1999 CrL.J.1856 Ker.,2004 CrLJ 3772 HP and 1976 CrL.J.371 Kar.**
- **===Contra 1979 Cr.L.J.1437 Alld.**