

Revision by Court of Session under CrPC

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Introduction

The maxim 'no one shall be left without a remedy' is widely recognized and deeply ingrained in the fabric of the common law system. It serves as a guiding principle that ensures justice and fairness for all individuals. Throughout the evolution of legal systems, this maxim has come to be understood as an essential component of natural justice, acting as a cohesive thread that runs through the provisions of the Criminal Procedure Code.

In instances where the Criminal Procedure Code does not explicitly provide for an avenue of appeal, the aggrieved party is not left without recourse. Instead, they have the option to seek redress by invoking the revisional jurisdiction of either the Sessions Court or the High Court. This grants them an opportunity to request a review and reconsideration of their case, providing a potential remedy for their grievances.

The revisional jurisdiction is enshrined in Sections 397 to 401 of the Criminal Procedure Code, delineating the powers conferred upon the Sessions Courts. These provisions grant both the Sessions Court and the High Court concurrent jurisdiction to undertake the revision of a matter. Such concurrent authority ensures that individuals have multiple avenues for seeking revision, enhancing access to justice and reinforcing the principle of 'no one shall be left without a remedy.'

Under these laws, the High Court and the Sessions Court are entrusted with broad and discretionary powers in their revisional jurisdiction. This includes the authority to examine the legality, propriety, or correctness of a decision made by a lower court. The revisional courts can delve into the merits of the case, reevaluate evidence, consider legal arguments, and potentially modify or set aside previous orders or judgments.

However, it is important to note that while the revisional courts wield considerable authority, there are also limitations placed upon them. The scope of their powers is not boundless, and the Criminal Procedure Code sets forth certain restrictions and parameters within which the revisional courts must operate. These restrictions aim to maintain a balance between the need for justice and the need for finality in legal proceedings.

This paper aims to provide a concise yet comprehensive explanation and analysis of the nature and scope of the powers conferred by Sections 397 to 401 on the Sessions Courts. By exploring the intricacies of these provisions, it seeks to shed light on the potential remedies available to individuals through the revisional jurisdiction of the Sessions Courts. Through a careful examination of the legislative framework, judicial interpretations, and relevant case law, this paper endeavors to elucidate the significance and implications of these revisional powers within the criminal justice system.

What is Session Court's Revisional Jurisdiction?

The word "revision" is not described in the Criminal Procedural Code 1973, but according to the dictionary revision is the process of rewriting or examining anything in order to find and correct any flaws which it may include. The purpose of the revisional jurisdiction is to correct a patent error or a jurisdictional or legal mistake. There must be a clear and definable mistake, and it may not be suitable for the court to examine those orders that seem to have been well adjudicated and are in compliance with the law without any reasonable doubt.[i]

Section 397 provides that the High Court or any Sessions Judge has the authority to call for or review the records for any case if the following kind of situations:

1. The court's revisional jurisdiction can be put to power when there is a significant error, violation of law, a fully incorrect judgment, or when judicial power has been employed unreasonably.[ii] "Normally, revisional jurisdiction should be exercised on a question of 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."
[iii]
2. Revisional jurisdiction is also used to avoid misuse of the court's system or to ensure that justice is done. The legitimacy, validity, or correctness of a court's decision is the basic cornerstone of exercising revisional jurisdiction, but it also demands that justice be done.

These are not exhaustive categories, but rather examples. Each instance of revisional jurisdiction would have to be judged independently. Another widely acknowledged rule is that the sessions court's revisional authority is relatively restricted and cannot be utilised on a regular basis. One of the built-in limitations of this jurisdiction is that it cannot be used to overturn an interim or interlocutory order.

Need for Revisional Jurisdiction

The criminal justice system in India has a significant impact on everyone's life in this country. It is a system that results in some significant penalties for people who have been convicted under the criminal law. Every human-built system or structure has flaws, and our Indian courts are no exception. It should be emphasized that while courts are recognized for enforcing the law to their citizens, this does not immunize them from making errors in the process of administering justice. Courts are also capable of committing errors, but it cannot be normalized to do so frequently because they are the guardians of equality and justice.

Therefore, some sections have been incorporated into the Criminal Procedure Code of 1973, as well as the Civil Procedure Code of 1908, in order to review the judgments and orders issued by the subordinate courts and the High Court in order to prevent and eliminate any possibility of a wrongful conviction. Sections 397 to 405 deal with the powers of revision provided to the high court and sessions court, as well as the methodology or mechanism for properly using these powers. It should be highlighted that by their very existence, these provisions are broad and arbitrary.

Section 397 - Calling for records to exercise powers of revision.

Sections 397 to 401 of the Code deal with the High Court's revisional authority, with Section 401 being the most important. This section empowers the High Court and the Sessions Judge to request and examine the records of any inferior Criminal Court in order to determine whether a sentence, finding, or order of such inferior Court is legal, correct, or proper, and whether the proceedings of such Court are regular or not, in order to prevent miscarriage of justice and the perpetuation of illegality.

The High Court and Court of Session have the authority under Section 397 to call for and inspect any proceeding's records in order to satisfy themselves as to:

1. The correctness, legality, or propriety (correctness) of any finding, sentence, or order recorded or

2. The regularity of any inferior court proceeding.

During the of the appeal or the inspection of the record, they have the power to direct the execution of pendency any sentence, as well as postpone or stay the lower court's ruling. If the accused is in detention, the court may order the accused to be released on bail by executing the bonds.

In *State of Rajasthan v. Fatehkaran Mendu (2017) 3SCC 198*, the Apex court held that "the object of this provision was to set right a patent defect or any error of jurisdiction or law or the perversity which was crept in during the proceeding." Under these laws, the High Court has the authority to hear a revision petition on its own motion, often known as Suo moto or on the aggrieved party's Petition.[iv]

In the case of *Amit Kapoor vs. Ramesh Chander and Others (2012) 9 SCC 460* A legal controversy arose over the breadth and depth of the High Court's jurisdiction under Section 397 of the Code of Criminal Procedure, 1973, either alone or in connection with Section 482 of the Code of Criminal Procedure, 1973. The appellant was charged under Sections 306 and 448 of the Criminal Code. The defendant filed a Criminal Revision appeal at the High Court of Delhi in New Delhi, challenging the court's ruling establishing the charge. The petition for revision was granted in part. The charge established under Section 306 IPC was invalidated by the High Court, but the Trial Court was allowed to proceed with the trial of the offence under Section 448 IPC. The appellant, who was dissatisfied with the High Court's decision, challenged it on the grounds that the High Court had exceeded and improperly exercised its jurisdiction under Sections 397 and 482 of the Code in quashing the charge brought against the respondent under Section 306 IPC.[v]

Section 398.- "Power to order inquiry"

The section grants a special power i.e. "power to order enquiry" to three courts namely, The High court, sessions court and the Chief judicial magistrate, wherein the High court or sessions court direct the Chief judicial magistrate or any other subordinate court for any further enquiry, the chief judicial magistrate can also on its own accord make or direct any subordinate court for further enquiry into any complaint.

The section empowers these courts for enquiry in complaints that are dismissed under sections 203 and 204 (4) of the Code of Criminal Procedure, 1973. It acts as a remedy in such cases of dismissal of complaints, as there are no other provisions that provides any countermeasur ^ r

the victims or state even after a further finding has been made of the involvement of the accused in the offence. The section provides for appeal to such cases of dismissal under sections 203 and 204(4).

The proviso to this section enables the Court to issue a show-cause notice to the accused person indicating why he should not be subjected to further enquiry. The proviso only applies in circumstances where the accused has been acquitted, not in cases where the complaint has been dismissed.

The word 'further inquiry' used in this section does not refer to a new or fresh investigation "de novo". It simply entails a re-evaluation of the same evidence that was evaluated previously prior to issuing an order for dismissal or discharge. The Sessions Judge has no jurisdiction to examine the Chief Judicial Magistrate's ruling if he has already ordered further investigation under this provision. He may however, refer the case to the High Court. The Chief Judicial Magistrate can only order further investigation; he does not have the authority to order a retrial of the case under this section.[vi]

Harun Khan v. Mahesh Chand, (1997)

In this case it was held that under Section 308, the revision court can only make an order for further enquiry.[vii]

Rajendra Rajoriya v. Jagat Narain Thapak, (2018)

The Hon'ble Supreme Court in this case held that the observations and reasoning for further enquiry given by the sessions court, i.e., in this case the revisional court, shall be only considered as a remand order and not to be considered to be having an effect of taking cognizance. Further, the Magistrate court shall not take these observations of the revisional court in mind while passing its order, rather the court shall reflect its independent application of mind, material facts and only pass an order on the merits of the case.[viii]

Section 399. -"Sessions Judge's powers of revision"

In case of any proceeding of which the record has been called for by the sessions judge, The section confers all or any power that may be exercised by the High Court as per Section. 401(1), to be co-extensive with revisional powers of the sessions court, Subject to certain limitations.

Sub-section (2) states these limitations on exercising the power of revision by the sessions court, It also states that sub-sections (2),(3),(4) and (5) of Section 401 shall be corresponding or parallel

to the power exercised by the sessions court. For Example:- sub-section (3) of section 401 does not allow the High court to convert a finding of acquittal into one of conviction. Thus, this shall apply to the sessions court in an exact similar manner, barring the sessions court from converting a finding of acquittal into conviction.

Sub-section (3) extends the scope of the Revisional power exercised by the sessions court as according to it, The decision made by the sessions court in a revisional matter shall be final and not be subject to any further appeal by way of revision petition, and the High court or any other shall not entertain such petitions.

The Sessions Judge can only use revisional powers which have been submitted to him by a revision petition, but the High Court has the ability to take up a revisional case by itself or when it is brought to its notice.

Scope and limitations.

Ramgopal Ganpatrani Ruia v. State of Bombay

The Apex Court in this case clarified the scope of revisional powers of Sessions court by stating the follows, *"Since the Sessions Judge by virtue of S. 399 has now full co-ordinate general powers of revision with the High Court under S. 397 read with S. 401 in respect Courts inferior to Sessions Judge in the case of any proceeding, it follows that the Sessions Judge in revision can exercise any of the powers conferred on the Court of appeal under S. 386, and at although the Sessions Judge has no power to entertain appeals under Ss. 378 and 377 from an order of acquittal or for enhancement of sentence passed by an inferior Court, he may also entertain applications for revision from an aggrieved party against acquittal and from the complainant aggrieved party for enhancement of sentence and also suo motu invoke revisional jurisdiction in such cases."* [ix]

Puvvula Abbulu v. The State, 1975

It was held in this case that, *"When the Sessions Judge has not been given powers to hear appeals against acquittal and for enhancement of sentence which powers have been given to High Court alone, it is rather extraordinary that such powers have to be given to him in revision. Revisional powers of Sessions Judge are co-extensive with powers of High Court under S. 401"* [x]

Prabhudas Chhaganlal v. Babubhai Virabhai Miseria, 1977



A Sessions Judge can suo motu enhance sentence and can also entertain and also application against sentence and enhance the sentence in certain cases. [xi]

Jagdish Das v. State of Bihar, 1979

Sessions Court in revision, like High Court, can direct commitment of a case[xii]

Yandrapu Venkataramana v. Yandrapu Surya Prabhavathi, 1997

Petition under Section 482 against order dismissing revision against ex parte order granting maintenance to wife, not maintainable in view of Section 399(3), CrPC .[xiii]

Mohd. Afzal vs. Noor Nisha Begum 1997

In this instance, the court decided that it is essential for the Sessions Judge to allow the accused an opportunity to be heard when the power of revision is exercised, and that it is an established law.[xiv]

State v. Peter, 1981

Where a case is committed to the Sessions Court for trial, it cannot quash the committal proceedings in revision [xv]

Public Prosecutor High Court of Calcutta v. Abhijit Bose, 1984

The Sessions Judge in revision cannot quash a proceeding. That power is vested only with the High Court under S. 401, read with S. 482

1. *Balasubramanian vs The State Of Tamil Nadu 2013*

The Madras High Court was of the opinion that “A Sessions Judge can entertain an application in revision against sentence and enhance the sentence in revision in certain cases.”[xvi]

Milon Chandra v. Shiva Prasad Chakravarty, 2003

The Sessions Judge has jurisdiction to consider revision against an order of acquittal subject to the general restriction in the case. There is no explicit provision barring the Sessions Court’s competence to entertain revision against an order of acquittal.[xvii]

Unni v. Kuttapan, 2003

Only in extreme circumstances can the Court use this power. The Sessions Judge's decision, issued in the course of its revisional authority in a non-exceptional case, requiring the trial court to obtain evidence for prosecution after revising the acquittal ruling, was found to be without jurisdiction.[xviii]

Section 401 High Court's powers of revision.

The powers of the High Court as a Court of Revision are discussed in this section. The High Court has a discretionary jurisdiction over questions of legality, propriety, regularity, or correctness of any finding, sentence, or order recorded or passed by the lesser Criminal Court, which should be used sparingly. The section also allows the High Court to order the offender to be pardoned in accordance with Section 307.

The Revisional Court is competent to exercise all the functions bestowed on the Appellate Court by virtue of the provisions contained in Section 401 CrPC," the Supreme Court stated in *State of Maharashtra vs. Jagmohan Singh Kuldip Singh Anand*. Section 401 CrPC authorizes the High Court to execute all Appellate Court functions in support of the jurisdiction of superintendence or supervision vested on the High Court or the Sessions Court as part of the jurisdiction of revision. The High Court or Sessions Court, depending on the issue, has the authority to "satisfy itself or himself as to the accuracy, legality or appropriateness of any finding, judgement, or order, recorded or passed, and as to the regularity of any procedure of such lesser court" under Section 397 CrPC. If required, the High Court or Sessions Court can use full appellate powers for the above-mentioned reason. The jurisdiction of the Appellate Court is conferred on the Revisional Court under Section 401 CrPC for the above-mentioned restricted purpose. The contents of Sections 395 to 401 CrPC, taken collectively, do not suggest that the High Court's revisionary authority may be used as a secondary appellate jurisdiction.[xix]

The Court in *Bachan Singh v. State of Punjab* while dealing with the revisional powers of the High Court has ruled thus: (SCC pp. 756-57, paras 10 and 11 "...it was acceptable for the High Court to practise the authority of a court of appeal under Section 386 for enhancement of the sentence in respect of the petition filed under Section 401 CrPC for the exercise of the High Court's power of revision... The High Court's power of revision in the case of any proceeding the record of which has been called for by it or which otherwise comes to its knowledge, has been stated in Section 401 CrPC to which reference has been made abo..." This includes the ability granted to a court of appeal under Section 386 to increase or decrease the punishment."[xx]

The topic of remission under Section 401 CrPC was raised in *Sarat Chandra Rabha v. Khagendranath Nath* in the context of a disqualification provision under section 7(b) of the Representation of the People Act, 1951. In that instance, the Returning Officer dismissed the appellant's registration document because he was disqualified under Section 7(b) of the Representation of the People Act. According to Section 7(b) of the Act, if a person is convicted by a court in India of any crime and sentenced to jail for not less than two years, he is ineligible to be elected to either House of Parliament, the Legislative Assembly, or the Legislative Council of a State, until a duration of 5 years, or such minimal timespan as the Election Commission may permit in any specific case, has expired since his discharge.[xxi]

The appellant was convicted under section 4(b) of the explosive substances act (6 of 1908) and sentenced to three years hard imprisonment on July 10, 1953, and the nomination paper was submitted in January 1957, and the election was held in February 1957, it was acknowledged in that case. Since his release by the State under Section 401 CrPC on November 14, 1954, a term of five years had not expired. In that instance, the Court concluded that, unlike a free pardon, Section 401 CrPC cannot erase either the guilt or the punishment, and upheld the judgement rejecting the nomination paper on the grounds of eligibility under Section 7(b) of the Representation of the People Act.

Process and Documents required to file a revision petition

To file a revision petition under the Code of Criminal Procedure (CrPC), the following steps should be followed. First, gather relevant supporting documents such as affidavits, documentary evidence, and legal provisions, ensuring they are organized and labeled appropriately. Then, compile the revision petition, along with certified copies of the judgment and other relevant orders, as well as the supporting documents, making multiple copies as required. Next, calculate and pay the necessary court fees associated with filing the revision petition, retaining the receipt or proof of payment. Afterward, visit the appropriate court, submitting the original revision petition along with the required copies, following the instructions provided by the court registry and providing necessary case details. Finally, serve a copy of the revision petition and supporting documents to the opposite party or their legal representative according to the CrPC, while retaining proof of service. It is advisable to consult a qualified attorney for jurisdiction-specific guidance and assistance with your particular case.

When filing a revision petition under the Code of Criminal Procedure (CrPC), the following documents are generally required:



1. Revision petition: The main document is the revision petition itself, which should clearly state the grounds for seeking revision and the relief sought. It should include details of the case, the lower court's judgment or order, and the reasons why you believe the revision is warranted.
2. Certified copy of the lower court's judgment
3. Certified copy of other relevant orders and documents, for example, this may include orders related to evidence, witnesses, or any other significant rulings by the lower court.
4. Supporting documents which include any supporting documents that strengthen your case, such as affidavits, documentary evidence, and legal provisions.
5. Index of documents
6. Proof of payment for the court fees associated with filing the revision petition.
7. If required, an affidavit of service or proof that the notice of the revision petition has been properly served to the opposite party or their legal representative.

Limitation Period for Filing a Revision Petition under Section 397

As per Article 131 of the Limitation Act, 1963, the time limit for filing a revision under Section 397 of the Criminal Procedure Code (CrPC) is 90 days from the date of the order being challenged. However, if there is a satisfactory explanation provided by the proposed revisionist for the delay, the revisional court has the authority to condone the delay under Section 5 of the Limitation Act, 1963.

The term "sufficient cause" mentioned in Section 5 of the Limitation Act, 1963, when presented by the revisionist to justify the delay in filing the revision within the prescribed time limit, should be interpreted liberally. "Sufficient cause" refers to a reason for which the revisionist cannot be held responsible for their absence or inaction, or a reason that demonstrates the party's diligence and active participation in the matter.[xxii]

Therefore, the revisional court is advised to adopt a liberal approach when considering the question of limitation concerning a time-barred criminal revision.

Need for Revisional Jurisdiction

The criminal justice system in India has a significant impact on everyone's life in this country. It is a system that results in some significant penalties for people who have been convicted under the criminal law. Every human-built system or structure has flaws, and our Indian courts are no exception. It should be emphasized that while courts are recognized for enforcing the law ^

their citizens, this does not immune them from making errors in the process of administering justice. Courts are also capable of committing errors, but it cannot be normalized to do so frequently because they are the guardians of equality and justice.

Therefore, some sections have been incorporated into the Criminal Procedure Code of 1973, as well as the Civil Procedure Code of 1908, in order to review the judgments and orders issued by the subordinate courts and the High Court in order to prevent and eliminate any possibility of a wrongful conviction. Sections 397 to 405 deal with the powers of revision provided to the high court and sessions court, as well as the methodology or mechanism for properly using these powers. It should be highlighted that by their very existence, these provisions are broad and arbitrary.

Conclusion

As a conclusion, it may well be established that the sessions court has revisional powers to remedy any jurisdictional fault or oversight, or to rectify a severe miscarriage of justice caused by any lower court during practicing their powers. Higher courts have these revision powers, but there is no certainty that the revision petition will be heard by the higher courts.

The special advantage of revisional jurisdiction is that even the sessions court can practice suo moto revisional powers where the subject matter is in the interest of the general public. It is important to note that while interlocutory orders in civil cases are subject to revision, interlocutory orders in criminal cases concerning the rights of parties or any specific aspect of the case are only subject to revision.

The Sessions Courts' revisionary jurisdiction is broad extensively, and the Sessions Courts are given wide range of powers in this area. It would be a stretch to claim that no type of judicial wrong may pass through this authority. The Sessions Court has been authorized to employ its inherent jurisdiction while dealing with instances of revision, according to several judgements. Both procedural and substantive problems are covered by these inherent abilities. However, it can only handle a question of law and not re-evaluate evidence.

[i] Siraj Ahmad vs The State Of Uttar Pradesh [2020] CRIMINAL MISC. WRIT PETITION No. - 6541 of 2020.

[ii] Amit Kapoor Vs. Ramesh Chander, (2012) 9 SCC 46

[iii] Amit Kapoor Vs. Ramesh Chander, (2012) 9 SCC 460



- [iv] State of Rajasthan v. Fatehkaran Mendu(2017) 3SCC 198
- [v] Amit Kapoor vs. Ramesh Chander and Others (2012) 9 SCC 460
- [vi] Gangaraddi, S., 2022. *Section 398 of Code of Criminal Procedure, 1973 (Cr.P.C.) - Explained!*. [online] World's Largest Collection of Essays! Published by Experts. Available at: <<https://www.shareyouessays.com/knowledge/section-398-of-code-of-criminal-procedure-1973-cr-p-c-explained/114939>>
- [vii] Harun Khan v. Mahesh Chand, (1997) 2 Crimes 301 (MP)
- [viii] Rajendra Rajoriya v. Jagat Narain Thapak, (2018) 17 SCC 234.
- [ix] Ramgopal Ganpatrani Ruia v. State of Bombay, AIR 1958 SC 97 1958 CILJ 24
- [x] Puvvula Abbulu v. The State, 1975 CrLJ 139: 1974 (2) Andh W 1974 Mad LJ (Cri) 581 (AP).
- [xi] Prabhudas Chhaganlal v. Babubhai Virabhai Miseria, 1977CrLJ 1666 : 18 Guj LR 147: 1976 Guj Cr R 333 (Guj).
- [xii] Jagdish Das v. State of Bihar, 1979 CrLJ 1272: 1979 BLJR 397 (Pat).
- [xiii] Yandrapu Venkataramana v. Yandrapu Surya Prabhavathi, 1997 CrLJ 710 : 1996 APLJ (Cri) 352: 1996 (2) Andh LD 841 (AP)].
- [xiv] Mohd. Afzal vs. Noor Nisha Begum 1997 IIAD Delhi 197
- [xv] State v. Peter, 1981 CrLJ (NOC) 127: 1981 Ker LT 27: LR (1981) 1 Ker 385 (Ker)
- [xvi] S. Balasubramanian vs The State Of Tamil Nadu 2013(3)MLJ(Cri)542
- [xvii] Milon Chandra v. Shiva Prasad Chakravarty, 2003 CrLJ 3845 2003 (3)
- [xviii] Unni v. Kuttapan, 2003 CrLJ (NOC) 186: 2002 (2) Ker CJ 38 (Ker)
- [xix] State of Maharashtra vs. Jagmohan Singh Kuldip Singh Anand, (2004) 7 SCC 659
- [xx] Bachan Singh v. State of Punjab (1979) 4 SCC 754, 1980 SCC (Cri) 174, (1980) 1
- [xxi] SCR 645²⁵ Sarat Chandra Rabha v. Khagendranath Nath AIR 1961 SC 334
- [xxii] Shri Basawaraj Vs. The Special Land Acquisition Officer, AIR 2014 SC 746.

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