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Revisionary Jurisdiction under Cr.P.C. : Scope and Limitations

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1. Introduction

In India, criminal justice is administered through the code of criminal procedure, 1973 (CrPC). Although it is substantive criminal law that provides offences and stipulates penalties, the CrPC provides the framework within which an investigation, trial and adjudication takes place. Among the more sensitive, but nonetheless important, mechanisms in this procedural framework is the exercise of revisionary jurisdiction by superior courts. The High Courts and the Courts of Sessions are authorized by section 397 through to section 401 CrPC to demand and investigate the record of inferior courts to provide a check on the legality, propriety and regularity of criminal actions(Khaitan, 2017). Revision is discretionary and supervisory, in contrast to appeals which are legislative rights and are administered to prevent a miscarriage of justice by way of jurisdictional errors, procedural aberrations or apparent illegality.

Revisionary powers are significant since they are considered as a safety valve in the criminal procedure. They also allow high courts to intervene where a remedy may not exist, and thereby protect the rights of the accused as well as the integrity of the criminal process. In the meantime, revision is only a restrictive form of jurisdiction; it is not even supposed to be a parallel to an appeal or even the hint of a re-trial of the contested facts. It has not always been an easy task to find the right balance between correction and overreach(Gupta, 2018). The last four decades of judicial experience have shown that the contours of the power to revise are never uniformly applied, and the result is a very high degree of doctrinal confusion.

The main point then is that the judicial interpretation of Sections 397401 CrPC was not consistent. In other jurisdictions, High Courts have expanded revisionary jurisdiction into traditional appellate territory, and in effect re-heard cases in the name of supervision. And there have been other occasions on which courts have taken an unhealthily restrictive position in refusing to invoke revisional powers even in a case of flagrant illegality(Jurisdiction et al., 2013). This form of oscillation has raised questions on the actual degree of revision thereby rendering it ineffective as a corrective mechanism.

On this premise, the paper proceeds to believe that judicial revision pursuant to Sections 3977401 CrPC has been mixed and created a doctrinal confusion between revisional and appellate powers and, accordingly, has rendered revision ineffective as a corrective exercise until the year 2018(Lal, 2012). To answer this hypothesis, the study poses a number of questions: What was the intention of the legislature in offering revisionary powers? What have the Supreme Court and the High Courts over the years said about these provisions? How is revision different in terms of its doctrines to appeals and intrinsic powers under Section 482 CrPC? And, lastly, has revival jurisdiction been in effect a real supervisory agency, or has it ossified into a frocked-up appeal?

2. Legislative Framework and Doctrinal Basis

2.1 Historical Evolution

Indian criminal procedure has a strong tradition of the concept of revisionary control by higher courts. The Code of Criminal Procedure of 1898 had provisions that allowed the High Courts to request the records of the subordinate criminal courts to review the legality and propriety. This supervisory power was to ensure judicial discipline and to remedy inadvertent gross errors but not to become a general power of rehearing. But that experience under the Code of 1898 showed some troubles. Numerous revision petitions crowded the lists of the High Courts, and were often instituted in lieu of an appeal which, in law, was inadmissible. The problem of delay in the criminal process and the finality of the criminal action was brought by the abuse of the revisionary remedies(Mohan, 2017).

The Law Commission of India wrote series of reports on these problems. The tendency was highlighted in the 14th Report (1958) that the litigants are misusing revisionary petitions thereby leading to unnecessary delays in the dispensation of cases. It implied more caution in permitting revisions, but without undermining their value as a formal instrument of control. The 41st Report (1969) that eventually guided the CrPC of 1973 suggested more explicit restrictions on the exercise of revisionary powers. It underlined that revisions were not to be considered as a disguised appeal and suggested that revisional scrutiny should be specifically held inapplicable to interlocutory orders to avoid harassment of litigants and block by block interference with trial. Section 397(2) of the 1973 Code which prohibits revising interlocutory orders included this recommendation(Saha, 2010).

The 154th Report (1996), later, went back to this topic, in which it once again was observed that revision petitions were overwhelming the High Courts. Although it proposed a solution to quicker disposal, it failed to provide a definitive doctrinal explanation that would bring an end to the confusion between revision, appeal and inherent powers(Ghosh and Choudhuri, 2011). In this way, by the time the 1973 Code was introduced, revisionary jurisdiction was necessary and objectionable both to right the erroneous, and to be abused and overreached.

2.2 Statutory Text of Sections 397–401

The 1973 Code sought to structure revisionary jurisdiction through Sections 397 to 401. Section 397 empowers the High Court or the Sessions Judge to call for and examine the record of any proceeding before any inferior criminal court within their jurisdiction. The purpose is to satisfy themselves as to the correctness, legality, or propriety of any finding, sentence, or order, and the regularity of proceedings. Sub-section (2) expressly prohibits revision against interlocutory orders, thereby seeking to strike a balance between supervision and avoidance of trial disruption.

Section 398 permits the revisional court to order further inquiry into complaints dismissed under Section 203 or cases where the accused has been discharged. Section 399 vests the Sessions Judge with all powers of revision available to the High Court, although subject to certain limitations. Section 400 allows an Additional Sessions Judge to exercise powers of a Sessions Judge in revision. Finally, Section 401 elaborates the powers of the High Court in revision, which are co-extensive with those exercisable in appeal but with crucial caveats: the High Court cannot convert a finding of acquittal into one of conviction, nor can it impose a higher sentence unless the accused is given an opportunity of being heard(Singh and Singh, 1967).

This is an important doctrinal distinction made between interlocutory and intermediate and final orders. Interlocutory orders which are temporary or procedural do not come under revisional scrutiny under Section 397(2). Final orders which have a final determination of rights or liabilities can be revised. The complication is with intermediate orders, i.e. orders that are not interlocutory, and at the same time not final, as with the framing of charges(Datia et al., 1922). In the interpretation of judicial orders, such orders have been difficult to categorize, which has led to inconsistencies in the scope of revision.

At the bottom of the statutory text is the acknowledgment of revisionary powers as a control mechanism. They are remedial in character, aimed at protecting legality and decency in trials of crimes(Hussain, 2011). Their discretionary nature and similarity with the powers of appellate and inherent judgment have, however, made them vulnerable to divergent judicial interpretations, as, in turn, has the history of case-law analysis until 2018.

3. Judicial Development of Revisionary Powers

Judicial interpretation has dominated the development of revisionary jurisdiction under the Code of Criminal Procedure, 1973 (CrPC). Although the statutory text between Sections 397–401 is a statement of broad powers, it has been the courts that have been called upon to decide in practice, where these powers lie. The Supreme Court and the High Courts have tried to define revising scope over the decades, usually with the result of misuse or confusion(Ghosh, 2015). It can be summarized into three general

periods: initial judicial clarifications shortly after the adoption of the 1973 Code; a phase of consolidation and growth in the 1990s; and modern interpretations dating between 2000 and 2018.

3.1 Early Judicial Clarifications

A major and one of the first decisions was Amar Nath v. State of Haryana (1977). The Court was required to determine whether under Section 397 otherwise interlocutory orders, ordered during the proceedings, but not finally establishing rights, could be revised. The Supreme Court was of the view that interlocutory orders would not be revised under Section 397(2). This was because they felt that permitting revision at each interim phase would paralyze trials and promote dilatory behavior. The Court however also recognized that not all orders made prior to judgment are interlocutory. Some of the so-called intermediate orders, like framing of charges, are serious and can be retracted(Khaitan, 2017). This was the case that established the principle that the bar in Section 397(2) is not absolute but must be construed pragmatically.

Soon after, Madhu Limaye v. State of Maharashtra (1977) further made clear the pertinence between revisionary powers and the natural jurisdiction of High Courts under Section 482 CrPC. The Court pointed out that the inherent power of the High Court to achieve the ends of justice is not limited by the fact that interlocutory orders are not subject to revision. This implication in effect, meant that even though revision was not open, the High Court still remained open under Section 482 to intervene in cases of palpable injustice(Gupta, 2018). This was a compromise: revision could not be put to the test of overruling every interlocutory order, but inherent powers could not be displaced in bulk. This gave rise to a complex dogmatical overlap of revisionist and natural jurisdiction which persists to date.

The other decision which was made was V.C. Shukla v. The by-product of the prosecution of politicians in the so-called Jain Hawala scandal, State (Delhi Administration) (1980). The Court pointed out the difference between the revisional and appellate authorities. The appeals allow for a re-examination of the facts and the law but revision is restricted to an examination of legality, propriety, or error of jurisdiction. The Court urged them not to confuse the two as the revisional jurisdiction is narrower and cannot under any circumstances be an alternative to the appeal(Jurisdiction et al., 2013). But in actual sense litigants were still filing amendments to seek a re-hearing of facts and this caused confusion in doctrine.

A combination of these preliminary cases attempted to extrapolate the intention of the legislation. They stressed that revision was discretionary and supervisory but not appellate. In accepting exceptions, how, and leaving certain residuary powers undisposed of, the Court left ambiguities that could not readily be removed by subsequent decisions(Lal, 2012).

3.2 Consolidation and Expansion

By the 1990s, questions about the extent of revisionary powers resurfaced. A key decision was Krishnan v. Krishnaveni (1997), where the Supreme Court addressed whether the High Court could exercise revisionary jurisdiction even when the Sessions Court had already entertained a revision. The Court held that the High Court's revisional power under Section 401 is wide enough to correct miscarriages of justice, though it should be used sparingly. The decision reinforced the supervisory nature of the High Court's role, ensuring that errors not rectified at the Sessions level could still be addressed(Kaushik, 2013). This judgment reflected the Court's concern with preventing injustice but also expanded the potential for multiple layers of revision, thereby blurring finality.

In State of Kerala v. Puttumana Illath Jathavedan Namboodiri (1999), the Court reiterated that revision is not a re-hearing on merits. The High Court cannot reassess evidence or substitute its own conclusions for that of the trial court. Instead, revision is confined to correcting jurisdictional errors, legal irregularities, or perversity in findings(Mohan, 2017). This ruling tried to redefine the limits of revisionary jurisdiction, but with little success due to mixed use follow-up rulings.

In K.K. Patel v., revisional powers were once more brought up to the edge of their limits. State of

Gujarat (2000). In the present instance, the Court stated categorically that the revisional court can only interfere where there is an apparent mistake of law or of jurisdiction, but no interference whatsoever with the domain of fact-finding. The ruling was an attempt to assist in enforcing the distinction between revision and appeal but also highlighted the difficulty involved in actually making out lines. The relativity of classifying the perverted or illegal often had arbitrary effects(Saha, 2010). This is a period of judicial tug-of-war in the sense that on the one hand the judicial judgments were inclined to affirm the limited and supervisory character of revision; on the other the will to prevent injustice led to the courts assuming the character of interveners.

3.3 Contemporary Interpretations (2000–2018)

Even in the new millennium, the judiciary was yet to determine the extent of revision to which it should go. Amit Kapoor v. was one of those judgments. In cases where the Supreme Court set down guiding principles, Ramesh Chander (2012). The Court indicated that the revision of power should be sparingly applied on extraordinary occasions when there is an apparent deficiency of practice, an error of law or miscarriage of justice that is palpable. The High Court should not just interfere with the case because there is a different side of the coin on which to interpret the evidence(Ghosh and Choudhuri, 2011). It is worth noting that the Court stressed that revision should not be a second appeal. This was to be a warning against excessive revision, and to induce moderation on the High Courts.

These pronouncements had contravention in the determinations of the High Courts across the nation. Then there were those benches that were broadly minded, where evidence was subject to revision, and findings were virtually altered in an appeal hearing.

Others were restrictive and declined to intervene even when there was an evident injustice.For example, in several cases involving discharge orders or framing of charges, courts differed on whether such orders were “intermediate” and thus revisable(Singh and Singh, 1967). This inconsistent practice meant that litigants faced uncertainty about the availability and scope of revision depending on the forum and the bench.

The period up to 2018 thus displayed a persistent pattern: while the Supreme Court repeatedly emphasized that revision is a narrow corrective jurisdiction, actual judicial practice often stretched it into appellate review. This undermined both the efficiency of criminal justice administration and the doctrinal clarity of the CrPC(Datia et al., 1922). Instead of serving as a predictable corrective tool, revision became a contested space, oscillating between restraint and activism.

4. Comparative Perspective

When examining the scope of revisionary jurisdiction in India, it is helpful to place it against the background of common law traditions, particularly English criminal procedure, which inspired much of the colonial-era codification. In England, the superior courts traditionally practiced supervisory control by prerogative writs of certiorari and mandamus. Certiorari was used to stop unlawful actions of inferior courts, so they should have been operating within its authority, and as required by law. Mandamus, however, required a lower authority to carry out a duty which was lawfully imposed on it(Hussain, 2011). These cures had a basis in the supervisory office of the King bench and were discretionary in nature with the aim not to grant a second hearing but to prevent a breach of the legality and the propriety of jurisdiction.

In contrast to the Indian system, there was no such thing as a formal revisional jurisdiction in English law codified in statute. Rather, supervisory review has been created as an extension of the natural authority of higher courts, operating within tight limits(Ghosh, 2015). It addressed the issue of jurisdictional error or misuse of power, rather than re-examination of evidence or replacement of determinations. Notably, English practice never placed such a firm boundary between appeal and supervisory remedies. The prerogative writs were concerned with defects in the procedure or jurisdiction, whereas the appeals addressed the case merits.

5. Doctrinal Distinctions and Confusions

One of the most persistent challenges in Indian criminal procedure has been drawing a clear line between revision, appeal, and inherent powers. The statutory framework attempts to distinguish them, but judicial practice has often blurred the boundaries(Khaitan, 2017). This has led to doctrinal confusion and uncertainty for litigants.

5.1 Revision vs. Appeal

The most fundamental distinction is that **an appeal is a matter of right**, while **revision is a matter of discretion**. Appeals permit a full rehearing on facts and law, giving the appellant an opportunity to challenge the correctness of findings. Revisions, by contrast, are intended to be supervisory—correcting errors of jurisdiction, illegality, or perversity, but not engaging in re-appreciation of evidence.

Despite this distinction, courts have not always maintained strict separation. In **V.C. Shukla v. State (1980)**, the Supreme Court drew a clear line, emphasizing that revisional jurisdiction is narrower and not a substitute for appeal. Yet in many High Court decisions, revision petitions have been used as de facto appeals. For example, litigants often file revisions when no statutory appeal lies, seeking to reopen factual findings. Some benches, sympathetic to preventing injustice, have entertained such petitions, effectively expanding revision into a quasi-appellate jurisdiction(Gupta, 2018). Others have dismissed them, citing statutory limits. The result has been inconsistency, with outcomes depending less on doctrine and more on judicial attitude.

The problem is particularly acute in relation to "intermediate orders" such as framing of charges. While technically not final, such orders can deeply affect the accused. Courts have differed on whether these can be revised, some treating them as interlocutory and others as revisable(Jurisdiction et al., 2013). This confusion stems from the tension between the corrective purpose of revision and its limited statutory scope.

5.2 Revision vs. Inherent Powers under Section 482 CrPC

Another layer of complexity arises in distinguishing revisionary jurisdiction from the High Court's inherent powers under **Section 482 CrPC**. The purpose of Section 482 is to enable courts to prevent abuse of process and secure the ends of justice. Unlike revision, which is codified and structured, inherent powers are residuary and uncodified, to be used sparingly when no other remedy exists.

In **Madhu Limaye v. State of Maharashtra (1977)**, the Supreme Court clarified that although interlocutory orders cannot be revised under Section 397(2), this does not curtail the High Court's inherent powers. Thus, even when revision is barred, Section 482 may still be invoked in exceptional cases. While this principle was well-intentioned, it created a grey zone where courts began to overlap revisionary and inherent powers(Lal, 2012). Litigants who could not seek revision due to the interlocutory bar often resorted to Section 482, and some courts entertained such petitions liberally.

Subsequent cases demonstrated divergence. Section 482 was construed by some benches as a backdoor appeal, and by others in a restrictive concept, where inherent powers could only be invoked as a matter of grave injustice(Kaushik, 2013). Such non-uniformity blurred doctrinal differences. Practically, revision and inherent powers became alternative ways of attacking the same orders, and of defeating the statutory boundaries so delicately designed in Section 397(2).

5.3 Supervisory Nature in Practice

Revisionary jurisdiction has been described as supervisory many times in theory and applied inconsistently in practice. Revision is ideally a corrective measure which ensures that there is lawfulness, propriety and regularity without replacing the findings of the trial court. State of Kerala v. This was made clear by Puttumana Illathavedan Namboodiri (1999), who believed that revision is a re-hearing, and cannot include re-evaluation of evidence. Similarly, in Amit Kapoor v. The Court (2012) once again stated that in extraordinary cases, revisions would be considered.

However, there was a drift in the actual judicial approach prior to 2018. Revisions on the basis of facts

were common in High Courts and, in effect, turned into appeals. An example is that in matters relating to sentencing or conviction based on evidence that is in dispute, the revisional courts had the tendency to examine and scrutinize testimony and material at a level exceeding their supervisory role(Saha, 2010). This was counterproductive to efficiency, introducing a multi-tier process to criminal trials and delaying finality.

Mean time there were also courts which reversed the course, and refused to meddle even with open illegality, in respect of the circumscribed character of revision. This reluctance even permitted serious errors to be left uncorrected. It was a disaster, because revisionary jurisdiction was not consistently restrictive or reliable as a protective measure(Ghosh and Choudhuri, 2011). Instead, the range was open to revision by the judicial philosophy, and the doctrine was uncertain.

6. Evaluation of Revisionary Jurisdiction as a Corrective Mechanism

The vital question in the analysis of the utility of revisionary jurisdiction is whether it has been indeed a corrective institution, or whether, in effect, it has assumed the character of an indirect appeal. The design of the statutory form of Sections 397 -401 CrPC was obvious: the revision was to act as a check, only intervening in cases of illegality, error in jurisdiction, or in a great miscarriage of justice. The history of parliamentary reform made it very plain, again and again, that reform must not degenerate into second appeals. But the history of judicial reform through 2018 is more complex, as reform has been successful in a fairly minimal percentage in correcting serious mistakes, but has in most instances served as a pretext to go as far as possible in implementing the intended change(Singh and Singh, 1967). On the brighter side, revision has certainly reprieved cases that had no appeal and in cases where the integrity of the trial was at stake because of procedural anomalies. The revision of orders of discharge under Section 239 or dismissal of complaints under Section 203 that are not necessarily appealable and needed revision to prevent a miscarriage of justice have been reviewed. Similarly, the High Courts have sometimes stepped in to redress either undue or frankly unreasonable punishment. These interventions refer to the worth of revision as a safety discharge within the criminal procedure(Datia et al., 1922). Without such a mechanism, many litigants who would otherwise have no redress would be victims or private complainants.

But re-examination of factual findings and weighing facts has been commonly re-examined under the same jurisdiction, which was exactly what the legislature was trying to prevent. In their eagerness to see that all justice is served, High Courts have occasionally played the role of an appeal judge, reevaluating evidence and tampering with jury verdicts. This pattern can be seen in several High Court decisions since 2000 to 2018 when revision was invoked to review orders on conviction on the basis of fact(Hussain, 2011). This practice confounds the difference between the appeal and revision and it establishes an informal system of several appeals by other names.

The issues that the Law Commission raised are still quite pertinent. The 14th Report (1958) had cautioned that revision petitions were being lodged in large numbers leading to delays. The 41st Report (1969) once more confirmed that interlocutory orders are not to be revised so as to obstruct trials in piecemeal fashion. Although these reforms were reflected in the 1973 Code, the 154th Report (1996) observed that even after 1973 revision petitions still blocked dockets, although now it was the pace of disposal which was being slowed, rather than the confusion of doctrine(Ghosh, 2015). That these concerns have persisted suggests that revision has not been systematically drilled into a strictly corrective instrument.

The other difficulty is that it has no empirical evidence. The petitions of revision have not been systematically examined as has been the case with appeals where the outcome is often examined statistically. Seldom is there a publication of the proportion of revisions passed, rejected, or resorted to as delaying tactics. Without this factual enlightenment, appraisals will be partisan: it is conceded by judges and lawyers that a large majority of revision petitions are both frivolous and dilatory, but there

is no statistical evidence to that effect(Khaitan, 2017). With an empirical residual like this, it becomes difficult to determine whether the changes, in aggregate, are working as corrective action.

In general, it can be said that despite the success of revisionary jurisdiction in correcting certain specific mistakes, its inconsistency and propensity toward intrusion into the appellate domain has made it ineffective as a remedial tool in small scale(Gupta, 2018). Instead of providing the clarity and predictability it can add to the criminal justice administration field, revision has turned into a disputed and misused tool.

7. Suggested Reforms and Doctrinal Clarifications

Within the shadow of these challenges is the need to embark on a sequence of reforms to restore the revisionary jurisdiction in its rightful position. The first and the most important is the exercise of a more extreme judicial self-restraint. A conscious awareness must be cultivated by High Courts and Sessions Courts to curb temptation to re-evaluate evidence, or to substitute findings, even where an alternative may seem plausible(Jurisdiction et al., 2013). This requires a certain inner discipline and adherence to the principle of revision, which is supervisory and not appellate.

Second, there is a case to codify additional specification of boundaries between revision, appeal, and inherent powers. Section 397 and Section 482 have shared the same field in a manner that has brought some confusion. Pronouncements of a parliament or the Supreme Court may be used to suggest in which cases inherent jurisdiction may be invoked where revision is not an option, and in which cases it is not an option(Lal, 2012). Writing up these limits would limit the area of strategic abuse.

Third, the procedural reforms are required to provide timely disposition of amendments. There could be time-limited norms of disposal, such as those suggested in case of bail application. Courts might also be given an incentive to charge the costs of frivolous or dilatory revision petitions, not to prevent genuine grievances but to discourage abuse.

Lastly, High Courts are supposed to publish interpretive guidelines(Kaushik, 2013). As with the practice directions on bail or sentencing set by some High Courts, a set of principles governing the extent of revision may be formally adopted(Mohan, 2017). This would not only assist junior courts and litigants, but also ensure uniformity between benches.

Combined, these reforms may restore revisionary jurisdiction to its ancient form: an exclusive, corrective and oversight instrument, neither redundant nor usurped.

8. Conclusion

The revisionary jurisdiction as analysed on the basis of the CrPC in Sections 397 401 till the year 2018 confirms the main hypothesis: courts have acted inconsistently in regards to the use of the revisionary jurisdiction and the doctrines have been confused, and have been seen to erode its purpose as a corrective tool. Although revision has been a relief in situations where there is no avenue of appeal, it has also been expanded to be a sort of quasi-appellate process, which was never intended by the legislature(Saha, 2010). This contradiction has destroyed the validity of revision as a separate jurisdiction.

In the future, there must be clarity of doctrine. Revision must be re-established as a narrow supervisory measure, the scope of which remains limited to correction of illegality, jurisdictional miscalculation or gross miscarriage of justice(Ghosh and Choudhuri, 2011). Appeals should still be the arena where the question of fact may be reviewed and the use of inherent jurisdiction pursuant to Section 482 should only be considered in isolated, exceptional circumstances. Judicial restraint, procedural reform and more definitive rules can restore the balance.

As of 2018, the revisionary jurisdiction story is that of promise subverted by inconsistency. With the right reforms and doctrinal discipline it can still pursue its initial purpose of maintaining the fairness of criminal proceedings without losing efficiency and finality in the justice system.

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