

IN THE COURT OF DR. PARVINDER SINGH ARORA, ADDITIONAL SESSIONS JUDGE (C.B.I. COURT), SHIMLA, DISTRICT SHIMLA, H.P.

CIS CNR No. : HPSH100091192025.
 CIS Regd. No. : Cr. Revision/60/2025.
 CIS Case Type : Cr. Revision.
 CIS Filing No. : Cr. Revision/6614/2025.
 Cr. Revision RBT No.: 21-S/10 of 2025.
 Date of Institution : 13.11.2025.
 Date of Decision : 29.07.2026.

In the matter of:

State of Himachal Pradesh.

...Revisionist/Appellant.

-Versus-

Sanjeev Sharma S/o Sh. Ramesh Chand Sharma, C/o City Channel, Office Floor Bridge View Regency, The Mall, Shimla, H.P.

....Respondent.

CRIMINAL REVISION UNDER SECTION 438 of BNSS, 2023. AGAINST THE IMPUGNED ORDER DATED 08.10.2025, PASSED BY THE LD. ADDITIONAL CHIEF JUDICIAL MAGISTRATE, COURT NO. 1, SHIMLA, DISTRICT SHIMLA, H.P.
--

PRESENCE:

For the State.	:	Ms. Sangeeta Justa Misra, Ld. Counsel
For the Respondent.	:	Shri Naresh Kumar Gupta, Ld. Counsel.

ORDER:

This is a criminal revision petition filed by the State against the impugned order dated 08.10.2025 passed by the Ld. ACJM-1, Shimla in criminal case titled State of H.P. Vs. Sanjeev Sharma arisen from FIR No. 33/2014 registered at Police Station, Dhalli Shimla under Section 354-A, 506 IPC.

2. Brief facts giving rise to the present petition are that during the trial of case on 05.07.2025, the examination of the complainant was deferred as the CD attached with the Court file was required to be played but there was no facility to play the same in the Court. As per the petitioner, thereafter, the complainant and her daughter appeared before the Ld. Court below as witnesses and could not be examined on 20.09.2025 as again there was no facility to play the CD in the Court. On 08.10.2025, the evidence of the prosecution was closed by the Ld. Trial Court on ground that neither the witness was present in the Court nor any arrangement to play the CD was made by the prosecution.

3. Aggrieved from the impugned order, whereby the evidence of the prosecution was closed by the Ld. Court below, the petitioner has approached this court by filing the present revision, inter-alia, on the following grounds:

1. That the impugned order is based on conjectures and surmises, against the facts and law.
2. That the Ld. Court below adopted a hyper technical approach while passing the impugned order.
3. That the impugned order is arbitrary, unjust and against the principles of natural justice.

4. That the order is bad in the eyes of law and liable to be set aside.
5. That the Ld. Court below failed to exercise its jurisdiction and wrongly directed the State to produce the witnesses rather than issuing summons.
6. That the Ld. Court below did not issue any notice to the concerned SHO before closing the prosecution evidence.
7. That Ld. Court below has erred in holding that it is the duty of the prosecution to produce the CD player to play the CD in the Court.
8. That the impugned order is irregular and has resulted into gross injustice, therefore, suffers from illegality.

4. Notice of revision petition was issued to the respondent/accused, who has contested the same.

5. During the course of arguments, Ld. P.P. for the State submitted that the matter in hand is serious as there were allegations levelled against the respondent/accused for commission of offence punishable under Section 354-A IPC. In these circumstances, the Ld. Court below should have shown some sensitivity before closing the prosecution evidence without recording the statement of material witness/victim. The Ld. Court below wrongly directed the prosecution to produce the witnesses and also to produce the CD player to play CD in the Court. The Ld. Court below should have issued the summons to the witnesses. The Ld.

Court below should have itself made arrangements for playing the CD in the Court, rather than putting such burden on the prosecution.

6. To the contrary, Ld. Counsel for the respondent/accused submitted that the Ld. Court below has passed a well reasoned order which does not require any interference from this Court. He further submitted that the matter pending before Ld. Court below has been finally decided and the accused has been acquitted. As such, the revision petition is not maintainable.

7. Ld. P.P. for the State rebutted that the revision petition is maintainable and the proceeding before the Ld. Court below can be revived, if the impugned order is quashed.

8. On the basis of record and after hearing the Ld. Counsel for the Revisionist and Ld. Counsel for Respondents, I am of the view that the following Points arise for determination in the present criminal revision.

<i>Point No.1.</i>	:	<i>Whether the impugned order dated 08.10.2025 passed by the Ld. Court below, is legally sustainable?</i>
<i>Point No.2.</i>	:	<i>Final Order.</i>

9. On thorough scrutiny of the record and after hearing the Ld. Counsel for the Revisionist and Learned Counsel for the respondents, my findings on the aforesaid points are as under:-

<i>Point No.1.</i>	:	<i>Yes.</i>
<i>Final Order.</i>	:	<i>As per operative part of this order, the revision petition filed by the Revisionist/appellant is dismissed.</i>

REASONS FOR FINDINGS:**POINT NO.1.**

10. The scope of criminal revision under Section 438 BNSS encompasses correctness, legality or propriety of any finding, sentence or order and as to the regularity of any proceeding before an inferior criminal court situated within the local jurisdiction.

11. The impugned order dated 08.10.2025 passed by Ld. ACJM-1, Shimla is challenged by way of present revision. Perusal of the impugned order reveals that the witnesses namely Smt. Muskan and Smt. Sarika were not present on that day, nor the prosecution had arranged the CD player to play the CD, but further time was prayed to produce the witnesses and arrange for the CD player. This request was opposed by the accused on the plea that he was facing the trial since 2014 and that the trial was being delayed due to inordinate delay caused by the prosecution to conclude its evidence. The impugned order also reveals that the case was categorized as an old and targeted case. The impugned order refers to zimny order dated 05.07.2025 on which date, the examination-in-chief of P.W. Smt. Sarika was deferred on the ground that the CD player required to play CD was not available and time was granted on the request of prosecution to arrange for the same. The zimny order dated 29.08.2025 referred to in the impugned orders suggest that on the said date, the prosecution had moved exemption application on behalf of the witnesses, which was allowed, subject to the condition that the witnesses be produced on self responsibility by the prosecution, failing which the prosecution evidence would be closed by the order of the Court. The impugned order also refers to zimny order

dated 20.09.2025 whereby the prosecution again sought time to arrange for the CD player when the last opportunity was granted for examination of witnesses and arrangement of the CD player with a clear stipulation that in the event of failure of prosecution, the prosecution evidence will be closed.

12. Hence, it reveals that prior to passing of the impugned order on 08.10.2025, the Ld. Court below had afforded sufficient opportunities to the prosecution to produce the witnesses and conclude their examination. The witness was present on 05.07.2025 but the chief-examination of the witness was deferred on the ground that the CD player required to play the CD was not available with the prosecution. It also reveals that on 29.08.2025, the witnesses were not present, but an exemption application was filed on their behalf by the prosecution, which was allowed subject to the condition that the witnesses shall be produced by the prosecution on self responsibility. However, it reveals that the prosecution failed to produce the witnesses on 08.10.2025. The impugned order further states that no cogent reason has been stated by the prosecution for non production of the witnesses.

13. It is admitted fact that the trial against the accused was pending since 2014 and due to the inordinate delay without any fault of the accused, his trial was being delayed in violation of the principle of speedy trial. The impugned order also records that the prosecution intentionally prolonged the litigation and abused the process of Court. Before passing the impugned order, it reveals that the Ld. Court below on previous dates had already directed the prosecution to take serious steps else prosecution evidence shall be

closed. This opportunity was also extended once by the Ld. Court below, but still the prosecution failed to produce the witnesses and examine them. Hence, it reveals that the Ld. Court below did not commit any procedural irregularity or illegality.

14. It is the arguments of the petitioner that the Ld. Court below failed to exercise its jurisdiction and wrongly directed the State to produce the witnesses on self responsibility. The argument is misplaced, as perusal of the impugned order suggests that such direction was issued by the Ld. Court below when exemption applications were moved on behalf of the witnesses by the prosecution. There is nothing on record to suggest that the prosecution at any stage had asked the Ld. Court below seeking its assistance for issuance of summons to the witnesses after passing of such directions. The duty to examine the witnesses in support of its case lies upon the prosecution, and it is only when assistance is sought from the Courts, the summons are issued to the witnesses.

15. It is also the arguments of the petitioner that the Ld. Court below erred by directing the prosecution to produce the CD player whereas such arrangement should have been made by the Court on its own. In the cases of cognizable offences, the State has assumed an onus to conduct the trial on behalf of the victim, and the victim need not pursue the allegations in the Court by filing the complaint. In order to discharge such onerous duty, the prosecution is required not only to examine the witnesses by way of oral evidence, but is also required to prove each and every document placed on record alongwith charge sheet. The alleged CD produced by the prosecution in the case in hand amounts to a document and

the prosecution was required to prove it. The order dated 05.07.2025 reveals that the witness was present in the Court but her chief-examination was deferred on the ground that the CD player required to play and show the contents of the CD to the witness was not available. The Ld. Court below directed the prosecution to make arrangements for the CD player. There is nothing on record to suggest that the prosecution ever submitted to the Ld. Court below that it ought not to be directed to produce the CD player or that it cannot produce the CD player for some reason. In these circumstances, now it does not lie in the mouth of the petitioner to argue otherwise. Therefore, for such reasons, it cannot be said that the impugned order is irregular and suffers from any illegality.

16. The Ld. Court below had passed a well reasoned order on the facts and circumstances before it so as to balance the right of the prosecution to prove its case vis-a-vis the right of the accused for speedy trial. The Ld. Court below had granted sufficient opportunities to the prosecution to conclude its evidence in the trial which was pending since 2014. It further reveals that now the matter pending before Ld. Court below has been finally disposed of. Accordingly the point No. 1 is answered in affirmative against the petitioner/revisionist.

FINAL ORDER:

17. In view of my findings on point No.1, the revision petition is dismissed and the impugned order dated 08.10.2025, passed by the Ld. Court below is upheld.

18. Let, the copy of this order be communicated to the Ld. Court below, whereas, the record of this Court after completion, be consigned to the records.

Announced and signed in the open Court, this the 29th day of July, 2026.

(Dr. Parvinder Singh Arora) Additional Sessions Judge, (C.B.I. Court) Shimla, H.P.
--