

CRIMINAL APPEALS AND REVISIONS

Jurisdiction, Power and Limits

Presentation under the CrPC and the BNSS, covering the history, statutory scheme, types of appeals, revisional control, limitation, lawyer strategy, judicial discipline, landmark cases, and changes under the new criminal procedure framework.



INTRODUCTION

Why appellate and revisional jurisdiction matters in criminal justice

- The law of criminal appeals and revisions is rooted in the recognition that criminal adjudication, however careful, remains vulnerable to factual error, legal misdirection, procedural irregularity, and jurisdictional excess.
- An appeal permits a superior court to revisit a decision in the manner authorised by statute; a revision enables supervisory scrutiny of legality, propriety and regularity where a narrower corrective jurisdiction is appropriate.
- This branch of criminal procedure therefore mediates between two competing demands: finality of litigation and correction of injustice.
- The modern significance of the subject lies in maintaining both fairness to the accused and institutional confidence in judicial decision-making.

HISTORICAL AND JURISPRUDENTIAL FOUNDATION

- The distinction between appeal and revision can be traced to **the Code of Criminal Procedure, 1898**, which already separated full appellate review from the narrower supervisory power of higher courts.
- The **CrPC, 1973** preserved that distinction, while rationalising appellate categories, refining appellate powers, and structuring revisional control more carefully.
- The **BNSS, 2023** does not abandon that lineage; it continues the same architecture with renumbered provisions and procedural refinement.
- Conceptually, appeal proceeds on the footing of a conferred right to rehearing or reconsideration, whereas revision reflects supervisory authority exercised to prevent jurisdictional error, illegality, procedural irregularity, or manifest perversity.

APPEAL AS A CREATURE OF STATUTE

The foundational rule: no appeal exists unless law grants it



- The first principle is that there is no inherent right of appeal in criminal law. The appellate remedy exists only where the statute expressly confers it.
- Under **Section 372 CrPC** and **Section 414 BNSS**, no appeal lies from any judgment or order of a criminal court unless the Code or another law so provides.
- This rule matters because appellate jurisdiction is not assumed merely because a party considers the judgment erroneous; legislative conferment is the source of the remedy.
- The jurisprudential basis of this understanding is reinforced by ***Garikapati Veeraya v. N. Subbiah Choudhry***, which treated the right of appeal as substantive and vested, not merely procedural.

STATUTORY SCHEME OF CRIMINAL APPEALS

How the Code and the BNSS structure the appellate framework

- Under the CrPC, appeals were principally contained in **Sections 372 to 394**; under the **BNSS**, the corresponding appeal framework appears in **Sections 414 to 435**.
- The BNSS sequence begins with the no-appeal rule, then moves to appeals from security-related orders, convictions, statutory bars in guilty-plea and petty cases, appeals against inadequacy of sentence, appeals against acquittal, special appeals, and then the powers and procedure of the appellate court.
- This sequence is not accidental. It reflects a judicial method: first ask whether an appeal lies, then identify the category, the forum, limitation, and maintainability, and only thereafter move to merits.
- In present practice, correct BNSS numbering is important because many pleadings still use CrPC references out of habit.

SECTION-WISE MAP OF APPEALS (I)

Core appellate provisions under the CrPC and the BNSS

- **Section 372 CrPC / Section 414 BNSS** states the governing rule that no appeal lies unless the statute expressly permits it; this is the source rule for the entire appellate structure.
- **Section 373 CrPC / Section 415 BNSS** deals with appeals from orders requiring security or refusing / rejecting surety for keeping the peace or good behaviour.
- **Section 374 CrPC / Section 416 BNSS** governs appeals from convictions and distributes the appellate forum according to the court of trial and, in some categories, the sentence imposed.
- **Section 375 CrPC / Section 417 BNSS** bars or narrows appeals where the accused has pleaded guilty; **Section 376 CrPC / Section 418 BNSS** excludes appeals in petty cases subject to statutory qualifications.

SECTION-WISE MAP OF APPEALS (II)

Sentence, acquittal, appellate powers and finality

- **Section 377 CrPC / Section 419 BNSS** enables State appeals on inadequacy of sentence; **Section 378 CrPC / Section 420 BNSS** governs appeals against acquittal, including leave requirements and complaint-case structure.
- **Section 380 CrPC / Section 421 BNSS** confers a special right of appeal where multiple persons are convicted in one trial and an appealable judgment exists in respect of any of them.
- **Sections 382 to 386 CrPC** correspond broadly to **Sections 423 to 427 BNSS** dealing with petition of appeal, summary dismissal, hearing of parties, and the substantive powers of the appellate court to reverse, alter, remand or retrial.
- **Sections 389, 391, 393 and 394 CrPC** correspond broadly to **Sections 430, 432, 434 and 435 BNSS** dealing with suspension of sentence pending appeal, taking further evidence, finality of appellate judgments, and abatement on death.

APPEALS FROM CONVICTION

Forum, function and scope of the remedy

- Under **Section 374 CrPC** and **Section 416 BNSS**, appeals from conviction are distributed according to the court of trial and, in some cases, the seriousness of sentence.
- A conviction by the High Court in extraordinary original criminal jurisdiction goes to the Supreme Court; convictions by the Sessions Judge or Additional Sessions Judge, or those involving sentences above the statutory threshold, ordinarily go to the High Court; other convictions usually go to the Court of Session.
- An appeal from conviction permits broad reconsideration: the appellate court may examine appreciation of evidence, application of law, contradictions, burden of proof, and legality or proportionality of sentence.
- Yet the appeal is not a fresh trial. Witnesses are not normally re-heard; the trial record is re-evaluated judicially and not experimentally.

CONVICTION

APPEALS THAT DO NOT LIE

Guilty plea and petty cases as statutory limits

- Under **Section 375 CrPC** and **Section 417 BNSS**, where an accused has pleaded guilty and is convicted on that plea, the statute generally bars an appeal against conviction, though challenge to the extent or legality of sentence may still survive in the specified categories.
- The logic is that a voluntary plea of guilt narrows the factual contest and therefore does not permit the accused to later reopen the whole conviction as though the case had been fully contested at trial.
- **Section 376 CrPC** and **Section 418 BNSS** similarly exclude appeals in petty cases involving narrowly described minor punishments.
- These bars are calibrated rather than absolute: where another punishment is combined with the otherwise petty sentence, the statute may preserve appealability.

BARS

APPEALS AGAINST ACQUITTAL

Breadth of appellate power and the discipline of restraint

- Under **Section 378 CrPC** and **Section 420 BNSS**, the State may direct the Public Prosecutor to present an appeal against acquittal, subject to the statutory conditions; complaint-case acquittals and leave requirements are separately structured.
- The leading authority is ***Chandrappa v. State of Karnataka***. The Supreme Court held that an appellate court has full power to reappreciate, review and reconsider the evidence and reach its own conclusions on fact and law.
- At the same time, the Court emphasised the accused's double presumption of innocence: the ordinary presumption of innocence, reinforced by the trial court's acquittal.
- Therefore, if two reasonable views are possible on the evidence, the appellate court should not disturb the acquittal. The power is wide, but its exercise must remain disciplined.

ACQUITTAL

VICTIM'S RIGHT OF APPEAL

A shift from purely State-centric prosecution

- The proviso to **Section 372 CrPC**, conceptually continued under the BNSS, gives the victim a statutory right to appeal against acquittal, conviction for a lesser offence, or inadequate compensation.
- This marked a major shift in Indian criminal procedure by recognising that the victim is not merely a witness to a State prosecution but a stakeholder in the adjudicatory outcome.
- In ***Satya Pal Singh v. State of Madhya Pradesh***, the Supreme Court held that although the victim or legal heir has locus to appeal, where the appeal is against acquittal, the requirement of leave remains applicable.
- The case also underscores appellate discipline: the High Court should not dispose of such appeals mechanically or through cryptic affirmance.

VICTIM

APPEALS ON SENTENCE AND INADEQUACY OF SENTENCE

Error-correction is not limited to conviction or acquittal

- Under **Section 377 CrPC** and **Section 419 BNSS**, the State Government, and in specified centrally investigated matters the Central Government, may direct the Public Prosecutor to appeal against the sentence on the ground of inadequacy.
- The BNSS is notable for routing such appeals to the Court of Session when the sentence challenged was passed by a Magistrate, and to the High Court where the sentence was imposed by another court.
- The convict must be given a reasonable opportunity to show cause against enhancement, and in doing so may even contend for acquittal or reduction.
- This branch of law reflects an important point: appellate procedure is not merely accused-protective; it is error-corrective in all directions, provided the statute authorises the remedy.

SENTENCE

APPELLATE PROCEDURE, POWERS, FINALITY AND ABATEMENT

What the appellate court may do and what happens on death of the accused/appellant

- Once a criminal appeal is admitted, it cannot be dismissed for non-prosecution simpliciter. In ***Bani Singh v. State of U.P.***, the Supreme Court held that the appellate court must peruse the record and decide the matter on merits.
- Under **Section 386 CrPC** and **Section 427 BNSS**, the appellate court may dismiss the appeal, reverse findings and sentence, alter the finding, alter the sentence subject to law, order retrial, or pass consequential orders.
- The system also addresses finality and abatement. **Section 394 CrPC** and **Section 435 BNSS** govern what happens when the accused or appellant dies, including limited rights of near relatives to continue certain conviction appeals.
- These rules reflect both practicality and posthumous reputational justice, especially where the family seeks vindication against the stigma of conviction.

POWERS

SECTION-WISE MAP OF REVISION

- **Section 397 CrPC / Section 438 BNSS** empowers the High Court or Sessions Judge to call for records and examine correctness, legality, propriety and regularity; sub-section (2) contains the interlocutory-order bar.
- **Section 398 CrPC / Section 439 BNSS** concerns further inquiry in specified situations; **Sections 399 and 400 CrPC** broadly correspond to **Sections 440 and 441 BNSS** dealing with revisional powers of the Sessions Judge and Additional Sessions Judge.
- **Section 401 CrPC / Section 442 BNSS** contains the High Court's revisional powers, the hearing safeguard against prejudicial orders without opportunity, the bar on converting acquittal into conviction in revision, and the rule that revision should not replace an available appeal.
- **Sections 402 to 405 CrPC** broadly correspond to **Sections 443 to 445 BNSS** dealing with transfer or distribution of revision applications, ancillary procedural safeguards, and certification / communication of revisional orders to the subordinate court.

THE NATURE AND FUNCTION OF REVISION

- Under **Section 397 CrPC** and **Section 438 BNSS**, the High Court or Sessions Judge may call for and examine the record to satisfy itself as to the correctness, legality or propriety of any finding, sentence or order, and as to the regularity of proceedings.
- These four expressions correctness, legality, propriety and regularity capture the philosophy of revision. The revisional court is not there to retry the case; it is there to ensure lawful, regular and jurisdictionally sound adjudication.
- Revision therefore differs from appeal not in seriousness, but in character. It addresses legal defect, jurisdictional excess, procedural irregularity and manifest perversity rather than routine dissatisfaction on facts.
- Its existence prevents inferior criminal court decisions from becoming unreviewable merely because a full appeal is absent or inappropriate.

REVISION

SCOPE AND LIMITS OF REVISION

Amit Kapoor, Puttumana and the line against disguised appeals

- In ***Amit Kapoor v. Ramesh Chander***, the Supreme Court stressed that revisional jurisdiction is ordinarily exercised on questions of law, and that factual appreciation becomes relevant only where the result is perverse.
- The Court warned that mere suspicion of error is not enough. Revision exists to secure justice and prevent abuse of process, but it is not a licence for routine interference.
- In State of ***Kerala v. Puttumana Illath Jathavedan Namboodiri***, the Court made it clear that the High Court in revision cannot reappreciate evidence and substitute its own view of facts merely because another conclusion is possible.
- That line was reinforced again in ***Sanjaysinh Ramrao Chavan v. Dattatray Gulabrao Phalke***: revisional interference is exceptional, not an alternate factual forum.

INTERLOCUTORY ORDERS AND WHEN REVISION WILL NOT LIE

The statutory bar and its functional judicial interpretation

- **Section 397(2) CrPC** and **Section 438(2) BNSS** bar revisional interference with interlocutory orders passed in any appeal, inquiry, trial or other proceeding.
- The difficulty lies in classification. In ***Amar Nath v. State of Haryana and Madhu Limaye v. State of Maharashtra***, the Supreme Court clarified that orders substantially affecting rights or deciding important aspects of the case cannot always be dismissed as merely interlocutory.
- Another important restraint appears in **Section 401(4) CrPC** and **Section 442(4) BNSS**: where an appeal lies and no appeal is filed, revision should not ordinarily be entertained at the instance of the party who could have appealed.
- The BNSS, like the CrPC, retains a safety valve by permitting conversion of a revision into an appeal in the interests of justice where the party proceeded under an erroneous belief that no appeal lay.

INTERLOCUTORY

JUDICIAL LAWYER'S AND DISCIPLINE

How the bar should frame the case and what judges must guard against

- For judges deciding appeals, a reasoned order must demonstrate actual engagement with the evidence, the trial court's reasoning, and the grounds of challenge; mere affirmance by formula is not enough.
- For judges in revision, the constant question is whether the court is correcting illegality or merely substituting its own factual view. The moment revision becomes a fresh weighing of evidence without perversity or legal defect, it slips into disguised appeal.

PRACTICE

LIMITATION AND BNSS CHANGES

Time limits, continuity and practical implications under the new framework

- Limitation remains governed by **the Limitation Act, 1963**. **Article 114** provides **ninety** days for a government-side appeal against acquittal and thirty days from grant of special leave in the complaint-side structure; **Article 115** prescribes the principal appellate periods for sentence and order appeals; **Article 131** provides ninety days for revision applications.
- **Section 12 of the Limitation Act** allows exclusion of the time required for obtaining certified copies, and delay may be condoned for sufficient cause; yet limitation should not be treated as decorative in criminal matters.
- As to substance, the **BNSS** preserves the basic theory of criminal appeals and revisions: appeal remains statutory, revision remains supervisory, the bar on interlocutory revision remains, and the restriction against using revision where appeal lies also continues.
- The practical changes under the **BNSS** lie in renumbering, clearer procedural routing, continued emphasis on victim participation, and a **six-month** disposal target for certain serious sexual-offence appeals under the specified BNS provisions.

BNSS

TAKE AWAYS

The enduring lesson: power and restraint must coexist

- Criminal appeals and revisions are not procedural appendices; they are instruments through which the criminal justice system tests itself.
- Appeal represents the law's willingness to reopen decision-making on a fuller scale where statute grants that right; revision represents the law's insistence that inferior criminal courts remain within legality, propriety and procedural regularity.
- The enduring lesson of the case law is that power and restraint must coexist: ***Chandrappa disciplines acquittal appeals, Amit Kapoor disciplines revision, Bani Singh disciplines appellate disposal, and Satya Pal Singh disciplines victim appellate practice.***
- To expand revision into appeal would weaken finality; to shrink appeal into token review would weaken justice. The credibility of criminal justice depends on preserving that balance.