State of Orissa

Vs

Ram Chander Agarwala and Others

Criminal Appeal Nos. 86-93 of 1974

(Jaswant Singh, P. S. Kailasam JJ)

05.10.1978

JUDGMENT

KAILASAM, J. –

1. These appeals are by State of Orissa by certificate granted by the Orissa High Court against the judgment in criminal miscellaneous cases 131 to 138 of 1973.

2. The eight respondents before this Court filed a batch of eight criminal miscellaneous petitions under Sections 561-A and 562 of the Code of Criminal Procedure for a review of the orders passed by the High Court in criminal references 13 and 15 to 21 of 1972 on May 7, 1973, enhancing their sentence of fine of Rs. 2000 to one of rigorous imprisonment for six months.

3. The facts of the case are briefly as follows : On February 1, 1967, the Vigilance Police filed nine criminal cases against certain firms and their partners or proprietors under Section 20(e) of the Forward Contracts (Regulation) Act, 1952 (Act 74 of 1952). The cases were tried by the Additional District Magistrate (Judicial), Cuttack. The District Magistrate found the firms and persons, in management of the business guilty of the offences with which they were charged and inflicted a consolidated fine of Rs. 2000 with the direction that they would suffer simple imprisonment for three months in default of payment of fine. Against their conviction and sentence, the accused preferred an appeal to the Sessions Judge. The sessions Judge, while dismissing the appeals, found that the law required imposition of a minimum sentence of fine of Rs. 1000 for each offence and as the sentence passed by the trial Court was not in accordance with the law, he referred the matter to the High Court for passing of appropriate sentence. The accused preferred revision petition against the order of the Sessions Judge. The reference made by the Sessions Judge as well as the revision petitions were heard by the High Court. The High Court, while dismissing the revision petitions preferred by the accused, accepted the reference by the Sessions Judge and enhanced the sentence so far as the firms are concerned, to a sum of Rs. 3,900 at the rate of rupees one thousand and three hundred for each offence. As regards the Managers or the managing partners, the High Court sentenced them to six months' rigorous imprisonment, i.e., two months for each deal.

4. The firms paid up their fines but the persons who were awarded substantive sentence of imprisonment, filed criminal miscellaneous petitions before the High Court for a review of its order. The High Court accepted the petitions for review and recalled its previous judgment imposing substantive sentence of six months' rigorous imprisonment on the petitioners but imposed a fine of Rs. 3900 at the rate of Rs. 1300 for each of the offences on each of the petitioners who are the respondents in this Court.

5. Against the decision of the High Court, the State of Orissa applied for a certificate for preferring an appeal to this Court which was granted.

6. Before the High Court it was urged that the petitioners were not given notice of enhancement in the reference cases in respect of fines imposed. It was submitted that the notice was based on the recommendation of the learned Sessions Judge to pass appropriate sentence, but there was no indication in the notice, that the sentence would be enhanced to a substantive term of imprisonment. The order of reference by the Sessions Judge provided that, the sentence imposed by the trial court was illegal and therefore while maintaining the convictions, he set aside the consolidated sentence of fine and referred the matter to the High Court for passing appropriate sentences.

The learned Judge who dealt with the references made by the Sessions Judge passed an order in the following terms :

> Admit. Issue notice fixing March 20, 1972 for appearance. The acceptance of the reference may have the effect of enhancement of the sentence. Let clear notice be given to show cause against enhancement of sentence.

In pursuance of the order, High Court sent a notice, directing the respondents to appear and show cause as to why the sentences, inflicted on them, should not be enhanced. The submission, that was made on behalf of the respondents, was, that, neither the parties not the lawyers ever took it, that the notices were comprehensive notices, which would include enhancement of sentence by way of converting the fine into imprisonment. The High Court accepted the plea on behalf of the respondent that the criminal references read with the revisions would establish that, the petitioners, merely were given notice to show cause why the sentence of fine should not be regularised by way of enhancement of fine and that the notices ruled out enhancement by way of imprisonment since in this setting the notices were specifically in respect of fine and therefore imposition of sentence of imprisonment was without jurisdiction. We do not find any basis for the conclusion arrived at by the High Court. The notice, under Section 439(2) of the Criminal Procedure Code requires that no order, under Section 439, shall be made to the prejudice of the accused unless he has had an opportunity of being heard either personally or by pleader in his own defence, and sub-section (6) states that "notwithstanding anything contained in this section, any convicted person, to whom an opportunity has been given under sub-section (2) of showing cause why his sentence should not be enhanced, shall, in showing cause, be entitled also to show cause against his conviction". The order of the learned Judge by whom the reference was received and the notice issued by the High Court clearly shows that, the respondents were asked to show cause why their sentence should not be enhanced. The view taken by the High Court, that notice was only to show cause why the sentence should not be regularised by enhancement of the fine and not to a term of imprisonment is not borne out by the record.

7. Mr. Mukherjee, learned Counsel appearing for the State of Orissa submitted that, apart from the merits, the High Court had no jurisdiction to review its own judgment, and as such, the order of the High Court passed in review will have to be set aside as being without jurisdiction. On behalf of the respondent, Mr. D. J. Patel, submitted that, so far as the High Court is concerned, it has ample jurisdiction under Section 561(A) and other provisions of the Code to review its own judgment. Mr. Patel further submitted that Section 369 of the Criminal Procedure Code is not applicable to judgments on appeal passed by the High Court, much less to judgments of the High Court passed in exercise of its criminal jurisdiction under Section 439. To support this contention, the learned Counsel submitted that Chapter XXVI refers only to judgments of the trial Court and cannot be

made applicable to appellate judgments. He referred to Section 424 which provides that, the rules, contained in Chapter XXVI as to the judgment of criminal Court of original jurisdiction, shall apply, so far as may be applicable to the judgment to any appellate Court other than the High Court. The plea is that if Section 369 could be understood as being applicable to appellate judgments of the High Court also, there is no need for providing separately for the applicability of Chapter XXVI to the judgments of appellate Courts other than the High Courts. Reliance was placed on Section 430 for the submission that the finality provided for judgments, orders passed by the appellate Court would also indicate that, Section 369 is not intended to apply to judgments of the appellate Courts and to the High Court in appeals and in revisions. In order to appreciate the contention of the parties the relevant sections may be set out.

8. Section 369 as enacted in 1898, provided that :

> No court, other than a High Court, when it has signed its judgment, shall alter or review the same, except as provided in Sections 395 and 484 or to correct a clerical error.

Despite the express exclusion of the High Courts from the operation of this provision, it was held that the High Court had no implied power to alter or review their own judgments whether under Section 369 or under Section 439 or otherwise. It was accordingly proposed in 1921 that the words "other than a High Court" should be omitted to make it clear that Section 369 conferred no such power on the High Courts, as it was noticed that one or two other sections of the Code besides 395 and 484 and Clause 26 of the Letters Patent of the High Courts empowered the High Courts to revise their judgments. Hence the section was redrafted.

9. Section 369 of the Code of Criminal Procedure, 1898 reads as follows :

> Save as otherwise provided by this Code or by any other law for the time being in force or, in the case of a High Court, by the Letters Patent or other instrument constituting such High Court, no court, when it has signed its judgment, shall alter or review the same, except to correct a clerical error.

10. Under the Code of Criminal Procedure (Act 2 of 1974) the new Section 362 provides :

> Save as otherwise provided by this Code or by any other law for the time being in force, no court, when it has signed its judgment or final order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error.

11. The words "or in the case of a High Court, by the Letters Patent or other instrument constituting such High Court" which were found in the corresponding Section 369 of the old Code have been omitted in the present section. Hence an alteration or review by a High Court would be permissible as in the case of other courts, where provision therefor is made in this Code or by any other law for the time being in force.

12. A reading of Section 369 discloses that the section prohibits all courts when it has signed its judgment to alter or review the same except to correct a clerical error. While, regarding other courts, the prohibition is subject to any provision in the Code or any provision of any other law in force, in the case of the High Court it is provided that the prohibition will be subject to the Letters Patent or other instrument constituting such High Court. Thus so far as the High Court is concerned, the prohibition against alteration and the review of the judgment will be subject to the Letters Patent or

other instrument constituting such High Court. The Letters Patent of the High Courts of Bombay, Calcutta and Madras provide that the High Courts will have original criminal jurisdiction as well as the appellate criminal jurisdiction, as provided by Clauses 22 to 24. Clause 26 provides that such point or points of law reserved under Clause 25 or on its being certified by the Advocate-General that there is an error and that the points should be further considered, the High Court shall have full power to review the case. No other provisions is found in the Letters Patent enabling the High Court to review its own judgment. No other instrument, relating to the power to review, in the Constitution of the High Court, was brought to our notice. Giving the plain meaning to Section 369, it is clear that no court, subject to exceptions made in the section, shall alter or review its judgment.

13. Two other sections were relied on by the defence as providing an exception to the rule laid down in Section 369. They are Section 424 and 430 of Code of Criminal Procedure. Section 424 runs as follows :

> 424. The rules contained in Chapter XXVI as to the judgment of a criminal Court of original jurisdiction shall apply, so far as may be practicable, to the judgment of any appellate Court other than a High Court :

Provided that, unless the Appellate Court otherwise directs, the accused shall not be brought up, or required to attend, to hear judgment delivered.

14. The first part of Section 424 provides that the rules, contained in Chapter XXVI as to be judgment of a criminal Court of original jurisdiction, shall apply, so far as may be practicable, to the judgment of any appellate Court other than a High Court. Chapter XXVI relates to the judgment. Section 366 is the first section in the Chapter. It prescribes the mode of delivering judgment, i.e., it shall be delivered in the open Court and in the language of the Court. Sub-section (2) provides that the accused shall be required to attend, to hear judgment delivered. Section 367 prescribes the language and contents of the judgment and provides that the judgment may be in the alternative. When read with Section 424, it is seen that Section 366, 367 and 368, which relate to the judgment of a criminal Court of original jurisdiction, are made applicable, as far as may be, to the judgment of the appellate Court other than the High Court. The effect of Section 424, Cr. P.C. would be that the judgment of the appellate Court should, as far as applicable, be in accordance with the requirements of Sections 366, 367 and 368 of the Code. This rule is not made applicable to a High Court hearing an appeal. The proviso to Section 424 is significant, in that, it states that unless the appellate Court otherwise directs, the accused, shall not be brought up, or required to attend to hear the judgment delivered. This proviso makes an exception to the requirement, that is found in Section 366(2), which requires that the accused should when the judgment is delivered. Section 367 prescribes the language of the judgment and requires the points for determination, the decision thereon, the reasons for the decision that it shall be dated and signed in open court. While Section 369 prohibits altering or reviewing the judgment after a court has signed its judgment, Section 424 requires that the judgment of the appellate Court shall, as far as applicable, be in accordance with Section 366, 367 and 368 of the Criminal Procedure Code, which deals with the trial Court. Sections 369 and 424 do not restrict the prohibition under Section 369 to the trial Court alone. The purpose of Section 424 is to prescribe mode of delivering of judgment, the language and the contents of the judgment while Section 369 is general in its application and prohibits all courts from altering or reviewing its judgment when once it has singed it.

15. The second section, that is relied on, is Section 430. Section 430 provides, "When the judgment passed by an appellate Court upon appeal shall be final except in the cases provided for in Section

417 and Chapter XXXII". The section deals with the finality of orders on appeal. An exception is made in the case of a judgment under Section 417 that is, in an appeal by a public prosecutor against an order of acquittal, whether made by the trial Court or the appellate Court. So also, the provisions of Chapter XXXII is excepted in that the judgment of an appellate Court will not be final when provision is made for reference and revision. Neither Section 424 nor Section 430 deal with the prohibition imposed under Section 369 prohibiting the court from altering or reviewing its judgment when once it has signed it. It was next submitted that in any event Section 561-A is wide enough to include a power of review by the High Court. Section 561-A of Criminal Procedure Code runs as follows :

> 561-A. Nothing in this Code shall be deemed to limit or affect the inherent power of the High Court to make such orders, as may be necessary, to give effect to any order under this Code, or to prevent abuse of the process of any court or otherwise to secure the ends of justice.

The inherent power of the High Court is restricted to making such orders as may be necessary, to give effect to any order under the Code or to prevent abuse of the process of any court or otherwise to secure the ends of justice. The scope of the section has been explained in the two decisions of the Privy Council, which have been uniformally followed by this Court. In Emperor v. Khwaja Nazir Ahmed (AIR 1945 PC 18 : 46 Cri LJ 413 : 1945 ALJ 47), the Privy Council, repelling the view that Section 561A of Criminal Procedure Code gave increased powers to the Court which it did not possess before that section was enacted, observed that "it was not so" and proceeded to state :

> The section gives no new powers, it only provides that those powers which the Court already inherently possesses shall be preserved, and is inserted as Their Lordships think lest it should be considered, that the only powers possessed by the court are those expressly conferred by the Criminal Procedure Code and that no inherent power had survived the passing of that Act.

Reiterating the same view the Privy Council in Lala Jairam Das v. Emperor (72 IA 120 : AIR 1945 PC 94 : 46 Cri LJ 662) observed that Section 561-A of the Code confers no new powers. It merely safeguards all existing inherent powers possessed by a High Court necessary (among other purpose) to secure the ends of justice. This Court in State of Uttar Pradesh v. Mohammad Naim ((1964) 2 SCR 363, 370 : AIR 1964 SC 703 : (1964) 1 Cri LJ 549) cited with approval the two decisions of the Privy Council referred to above.

16. Section 561-A was added to the Code in 1923. It purports to save the inherent powers of the High Court to make such orders - (1) as may be necessary to give effect to any order passed under the Code, (2) to prevent abuse of the process of the court and (3) otherwise to secure the ends of justice. The introduction of the section was because doubts were expressed about the existence of such inherent powers in the High Courts after the passing of the Criminal Procedure Code. By the introduction of the section it was made clear that, the inherent powers of the High Court, for the purpose mentioned in the section, shall not be deemed to be limited or affected by the provisions of the Criminal Procedure Code. Thus, inherent power cannot relate to any of the matters specifically dealt with by the Code. It would follow that inherent powers cannot be invoked to exercise powers which would be inconsistent with any of the specific provisions of the Code. The saving of inherent power is only for giving effect to orders passed under the Code, to prevent abuse of the process of any court or otherwise to secure the ends of justice.

17. If Section 369 of the Criminal Procedure Code is understood as applying to judgments on appeal by the High Court, Section 561-A cannot be invoked for enabling the court to review its own order which is specifically prohibited by Section 369 by providing that, no court when it has signed its judgment, shall alter or review the same except to correct a clerical error.

18. Section 424 read along with Sections 366 and 367 would show that the requirements of the two sections in a judgment by a criminal Court of original jurisdiction, shall also apply, as far as applicable to the judgment of the appellate Court other than the High Court. The proviso is significant. It states that the appellate Court, when delivering the judgment, the accused shall not be brought up or required to attend unless otherwise directed to hear the judgment delivered. The provisions of Section 366(2) require the court to secure the personal attendance of the accused at the time of delivery of the judgment, except where his personal attendance during the trial has been dispensed with. The effect of Section 424 is generally that, the appellate Court should comply with the requirements prescribed under Sections 366 and 367. Section 430 deals with finality of order on appeal, that is, the judgment passed by an appellate Court shall be final unless otherwise provided for, but the finality of the appeal is subject to the provisions of Section 417 of the Criminal Procedure Code which enable the State to prefer an appeal against an order of the trial Court or an appellate Court. Similarly a judgment by an appellate Court is final subject to the Chapter which provides for reference and revision. Section 424 deals with the general requirements of judgments and Section 430 with the finality of judgment on appeal unless otherwise provided for. These two sections, it may be noted, do not deal with restriction against altering or reviewing the judgment the judgment except for correcting a clerical error. A reading of Section 369 of Criminal Procedure Code would reveal that this section is intended to apply to all courts, the provision being "no court when it has signed its judgment shall alter or review the same"; 'no court' would include 'all courts'. The operation of the section is saved if it is provided by the Code or by any other law for the time being in force. So far as the High Court is concerned, the section provides that the prohibition will not apply if the Letters Patent or other instrument constituting such High Court confers such a power. We see no justification for restricting the application of the section to judgments delivered by the High Court in criminal trials alone. The reference to the High Court in the section would indicate that the High Court is also covered by the provisions of the section subject to the exception provided for. The criminal jurisdiction as conferred by the Letters patent on the High Court covers not only the original criminal jurisdiction but also appellate powers. Though Section 369 appears in Chapter XXVI, we are not inclined to accept the contention put forward on behalf of the defence that it is applicable only to trial Courts and in any event not to appellate judgments of the High Court. Section 362 of the new Act has done away with the special provisions regarding the High Court and has made the section applicable to all courts. On a careful reading of Section 369 and 424 and 430, we are satisfied that Section 369 is general in its application. The word 'no court' would include all courts and apply in respect of all judgments. Section 424 is confined, in its application, only to the mode of delivery of judgment, the language of the judgment, the contents of judgment etc, and Section 430 of Criminal Procedure Code to the finality of judgments on appeal, except as provided for. Whether the judgment is by the trial Court or the appellate Court, Section 369 is universal in its application and when once a judgment is signed, it shall not be altered or reviewed except for correcting a clerical error.

19. Mr. Patel, the learned Counsel for the respondents, submitted that this Court has laid down that Section 369 is applicable only to judgments of the trial Court and therefore Section 369 cannot be construed as being applicable to appellate Court, especially to High Court. He relied on the decision in U. J. S. Chopra v. State of Bombay ((1955) 2 SCR 94 : AIR 1955 SC 633 : 1955 Cri LJ 1410). The question that arose for decision in the case was whether a revision preferred by the State of

Bombay to the High Court praying for enhancement of sentence, passed on the accused, is maintainable after the appeal preferred by the accused to the High Court of Bombay, was summarily dismissed. This Court held that the summary dismissal of the appeal, preferred by the appellant, did not preclude him, from taking advantage of the provision of Section 439(6) of the Code of Criminal Procedure, and showing cause against his conviction when he was subsequently called upon to show cause why the sentence imposed on him should not be enhanced. Two separate judgments were delivered by the three-Judge Bench. Justice Bhagwati along with Imam, J. spoke for the Court while S. R. Das J. delivered a separate judgment. Justice Das, while repelling the contention that the power under Section 439(6) is conditioned or controlled by the provisions relating to finality of judgment embodied under Sections 369 and 430 at page 108, observed :

> There is indication in the Code itself that the purpose of Section 369 is not to prescribe a general rule of finality of all judgments of all criminal Courts but is only to prescribe the finality of the judgment so far as the trial Court is concerned. That this section does not, by itself, apply to the judgment of an appellate Court is quite obvious, because if it did, there would have been no necessity for enacting Section 424 specifically making the rules contained in Chapter XXVI which includes Section 369 applicable to the judgment of any appellate Court other than High Court, nor for again prescribing by Section 430 a rule of finality for judgments and orders passed by an appellate Court.

The learned Judge concluded that the finality of Section 369 attaches to the judgments pronounced by all trial Courts including the High Court in the exercise of its original criminal jurisdiction, it certainly has no bearing on the question of finality of appellate judgments which is specifically provided by Section 430 of the Code. Bhagwati, J. who spoke for the Court has not held that the provisions of Section 369 are applicable only to judgments of the trial Courts. On the other hand, a reading of the judgment of Bhagwati, J. would indicate that the learned Judge was inclined to hold that the finality provided for in Section 369 of the Criminal Procedure Code is also applicable to the judgments rendered by the High Court in the exercise of its appellate or criminal jurisdiction. At page 144 of the Reports the learned Judge observed that once a judgment of the lower court is replaced by the judgment of the High Court, the High Court has no further powers to review or revise its own judgment and enhance the sentence which is thus passed by it upon the accused. The principle as to the finality of judgments applied by the Court by virtue of the provisions of Section 369 and Section 430 of the Criminal Procedure Code should not have been confined merely to the question of confirming the conviction but also should have been extended to the confirming of the sentence in so far as the High Court did not see any reason to reduce the sentence already passed by the lower Court upon the accused. Again dealing with the principle of finality the learned Judge observed that the principle of finality of judgments should therefore be extended not only to the question of the confirming of the conviction but also to the question as to the adequacy of the sentence, whether the sentence which is passed upon the accused by the lower Court should be reduced, confirmed or enhanced. Once therefore the judgment of the High Court replaces that of the lower court there is no question which can ever arise of the exercise by the High Court of its revisional powers under Section 469(1) of the Criminal Procedure Code. Again at page 162 the learned Judge reiterated the principle and observed, "As we have observed that principle comes into operation when once a judgment of the High Court has replaced that of the lower Court and in those cases the High Court would not be competent to review or revise its own judgment". In referring to the import of Section 369 on the powers of the High Court under Section 439(6), Bhagwati, J. held that Section 369 in terms provides, "save as otherwise provided in this Code" and Section 439(6) would be an otherwise provision which is saved by this non obstante clause appearing in Section

369. It is significant to note that both these amendments, the one in Section 369 and the other in Section 439, were enacted by Section 119 of Act XVIII of 1923 and the very purpose of these simultaneous amendments would appear to be to effectuate the right given to the accused to show cause against his conviction as enacted in Section 439(6) of the Criminal Procedure Code. As the majority judgment does not share the view expressed by Das, J. quoted above reliance cannot be placed on the view of Das, J. The view expressed by Privy Council in Jai Ram Das's case (72 IA 120 : AIR 1945 PC 94 : 46 Cri LJ 662), that alteration by the High Court of its judgment is prohibited by Section 369 of the Code was not brought to the notice of Das, J. Later decisions of this Court particularly the decision in Superintendent and Remembrancer of Legal Affairs, W. B. v. Mohan Singh held ((1975) 3 SCC 706 : 1975 SCC (Cri) 156 : AIR 1975 SC 1002) that when once the judgment has been pronounced by the High Court either in exercise of its appellate or its revisional jurisdiction, no review or revision can be entertained. In the Full Bench decision of the Allahabad High Court in Raj Narain v. The State (AIR 1959 All 315 : 1959 All LJ 56 : 1959 Cri LJ 543), Moothem, J. observed :

> It has commonly been assumed, even it would appear by the Privy Council in Jairam Das's case (supra), that this section applies also the judgment of the appellate Court but it is clear that that is not so : U. J. S. Chopra v. State of Bombay ((1955) 2 SCR 94 : AIR 1955 SC 633 : 1955 Cri LJ 1410).

In a later decision in Nirbhay Singh v. State of Madhya Pradesh ((1969) 2 SCR 569 : (1970) 2 SCJ 1), this Court, dealing with Section 369, after referring to Chopra's case observed that Section 369 occurs in Chapter XXVI and prima facie applies to judgment of the court of first instance. The Court did not proceed on the basis that it was settled law that Section 369 is applicable only to judgments of trial Courts.

20. Before concluding we will very briefly refer to cases of this Court cited by counsel on both sides. Talab Haji Hussain v. Madhukar Purshottam Mondkar's case (AIR 1958 SC 376 : 1958 SCR 1226 : 1958 Cri LJ 701) relates to the power of the High Court to cancel bail. The High Court took the view that under Section 561-A of the Code, it had inherent power to cancel the bail, and finding that on the material produced before the Court it would not be safe to permit the appellant to be at large cancelled the bail, distinguishing the decision in Lala Jairam Das v. Emperor (supra) and stated that the Privy Council was not called upon to consider the question about the inherent power of the High Court to cancel bail under Section 561-A. In Sankatha Singh v. State of U. P. (1962 Supp 2 SCR 817 : AIR 1962 SC 1208 : (1962) 2 Cri LJ 288), this Court held that Section 369 read with Section 424 of the Code of Criminal Procedure specifically prohibits the altering or reviewing of its order by a court. The accused applied before a succeeding Sessions Judge for re-hearing of an appeal. The learned Judge was of the view that the appellate Court had no power to review or restore an appeal which has been disposed of. The Supreme Court agreed with the view that the appellate Court had no power to review or restore an appeal. This Court expressing its opinion that the Sessions Court had no power to review or restore an appeal observed that a judgment, which does not comply with the requirements of Section 367 of the Code, may be liable to be set aside by a superior court but will not give the appellate Court any power to set it aside himself and re-hear the appeal observing that "Section 369 read with Section 424 of the Code makes it clear that the appellate Court is not to alter or review the judgment once signed, except for the purpose of correcting a clerical error". Reliance was placed on a decision of this Court in Superintendent and Remembrancer of Legal Affairs, W. B. v. Mohan Singh (supra) by Mr. Patel, learned Counsel for the respondent wherein it was held that rejection of a prior application for quashing is no bar for the High Court entertaining a subsequent application as quashing does not amount to review or revision.

This decision instead of supporting the respondent clearly lays down, following Chopra's case (supra) that once a judgment has been pronounced by a High Court either in exercise of its appellate or its revisional jurisdiction, no review or revision can be entertained against that judgment as there is no provision in the Criminal Procedure Code which would enable the High Court to review the same or to exercise revisional jurisdiction. This Court entertained the application for quashing the proceedings on the ground that a subsequent application to quash would not amount to review or revise an order made by the Court. The decision clearly lays down that a judgment of the High Court on appeal or revision cannot be reviewed or revised except in accordance with the provisions of the Criminal Procedure Code. The provisions of Section 561-A of the Code cannot be invoked for exercise of a power which is specifically prohibited by the Code.

21. In the result we accept the contention put forward by Mr. Mukerjee for the State and hold that High Court has no power to revise its own order. The appeal is allowed.

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