

# **HIGH COURT OF HIMACHAL PRADESH AT SHIMLA**

**Cr.R. No. : 26 of 2013**

**Decided on: 28.2.2013**

---

Manoj Kumar, son of Shri Braham Dass, resident of Village Kotalu, Police Station Barsar, District Hamirpur, H.P., presently under judicial custody at Sub Jail, Hamirpur, District Hamirpur, H.P.

..... Petitioner.

Versus

State of Himachal Pradesh

.....Respondent.

---

*Criminal Revision under Section 397 (1) read with Section and 401 of the Code of Criminal Procedure.*

---

*Coram:*

**The Hon'ble Mr.Justice V.K. Ahuja, Judge.**

Whether approved for reporting? No.

For the petitioner: Mr.Ashwani Sharma, Advocate.

For the respondents: Mr. D.S. Nainta, Additional Advocate General.

---

**Justice V.K. Ahuja, J.(oral):**

Present revision petition under Section 397 Cr.P.C. has been filed by the petitioner against the order passed by the learned trial Court allowing the application filed by the prosecution under Section 311 Cr.P.C. for examination of two witnesses.

2. Notice of the petition was issued to the respondent.

3. I have heard the learned counsel for the petitioner and the learned Additional Advocate General for the respondent, and have gone through the record of the case.

---

*Whether reporters of local newspapers may be allowed to see the judgment?*

4. The assertions made in the application are that some confessional statement has been proved in evidence during the trial of the case and the two witnesses cited in the application, namely, Seema Kumari and Pishore Chand, Ward Panch, were the scribe of the said confessional statement, whose names could not be mentioned in the list of prosecution witnesses and they are required to be examined. The learned counsel for the petitioner has referred to the contradictions in the statements of the witnesses, which is not material at this stage. The document in question stands already proved and now the application has been filed to produce the two witnesses, who were the scribe of the statement. The legality of the said confessional statement and other questions are yet to be determined by the learned trial Court, after the trial concludes and the learned counsel for the petitioner is at liberty to take any such plea.

5. In view of the above discussion, it is clear that the statements of the two witnesses are material and, therefore, the impugned order passed by the learned trial Court does not deserve to be set aside. The petition is accordingly dismissed. Parties through their counsel are directed to appear before the learned trial Court on the date fixed by the learned trial Court. The Registry is directed to send the record of the case to the learned trial Court **forthwith**, so as to reach well before the date fixed, alongwith a copy of this judgment.

6. The petition stands disposed of accordingly, so also the pending application(s), if any.

**February 28, 2013**

**\*tilak\***

**(V.K. Ahuja),  
Judge.**