



SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>CRLR/396/2026</u> M/s Prakash Electricals --Revisionist Versus State Of Uttarakhand and Another --Respondents <u>Hon'ble Alok Mahra, J.</u> Mr. Antriksh Bhaskar, learned counsel for the revisionist. Ms. Pushpa Bhatt, learned Additional Advocate General assisted by Mr. S.C. Dumka, learned A.G.A. assisted by Mr. Nikhil Bisht, learned Brief Holder for the State of Uttarakhand. Mr. Pratul Kumar, learned counsel holding brief of Mr. Devang Dobhal, learned counsel for respondent no.2. 2. The present Criminal Revision has been preferred challenging the order dated 23.02.2024, passed by the learned District and Sessions Judge, Tehri Garhwal in Criminal Revision No. 36 of 2023, whereby the revision preferred by respondent no. 2/complainant was allowed. 3. Learned counsel for the revisionist submitted that during the pendency of the trial, the revisionist had moved an application under Section 311 of the Code of Criminal Procedure, 1973 for recalling a witness, which was allowed by the trial court vide order dated 28.10.2023. Aggrieved thereby, respondent no. 2 preferred Criminal Revision No. 36 of 2023 before the learned District and Sessions Judge, Tehri Garhwal. The learned Revisional Court, vide the impugned order dated 23.02.2024, allowed the revision and set aside the order dated 28.10.2023. 4. It is contended on behalf of the revisionist that an order passed on an application under Section 311 Cr.P.C. is purely an interlocutory order and, therefore, in view of the bar contained under Section 397(2) Cr.P.C., no criminal revision lies against such an order. In support of the aforesaid submission, reliance has been placed upon the judgment of the Hon'ble Supreme Court in <i>Sethuraman vs. Rajamanickam</i>, reported in (2009) 5 SCC 153, particularly paragraph



			5 thereof. 5. <i>Secondly, what was not realized was that the orders passed by the trial Court refusing to call the documents and rejecting the application under Section 311 Cr.P.C., were interlocutory orders and as such, the revision against those orders was clearly barred under Section 397(2) Cr.P.C. The trial Court, in its common order, had clearly mentioned that the cheque was admittedly signed by the respondent/accused and the only defence that was raised, was that his signed cheques were lost and that the appellant complainant had falsely used one such cheque. The trial Court also recorded a finding that the documents were not necessary. This order did not, in any manner, decide anything finally. Therefore, both the orders, i.e., one on the application under Section 91 Cr.P.C. for production of documents and other on the application under Section 311 Cr.P.C. for recalling the witness, were the orders of interlocutory nature, in which case, under Section 397(2), revision was clearly not maintainable. Under such circumstances, the learned Judge could not have interfered in his revisional jurisdiction. The impugned judgment is clearly incorrect in law and would have to be set aside. It is accordingly set aside. The appeals are allowed.</i> 5. The issue for consideration is whether a revision under Section 397 Cr.P.C. is maintainable against an order allowing an application under Section 311 Cr.P.C. 6. The Hon'ble Supreme Court in <i>Sethuraman vs. Rajamanickam</i> (supra) has categorically held that an order passed under Section 311 Cr.P.C. is interlocutory in nature and, therefore, a revision against such an order is barred by Section 397(2) Cr.P.C. 7. In the present case, the order dated 28.10.2023 merely allowed the application for recalling a witness under Section 311 Cr.P.C. Such an order does not finally adjudicate the rights of the parties or determine any issue affecting the merits of the case and is, therefore, interlocutory in nature. Consequently, the revision preferred by respondent no. 2 before the learned District and Sessions Judge was not maintainable. The learned Revisional Court,
--	--	--	--



			therefore, exceeded its jurisdiction in entertaining and allowing the same. 8. Accordingly, the impugned order dated 23.02.2024, passed by the learned District and Sessions Judge, Tehri Garhwal in Criminal Revision No. 36 of 2023, is hereby set aside. The present Criminal Revision is allowed. 9. Pending applications, if any, also stand disposed of. (Alok Mahra, J.) 07-08-2026 SB
--	--	--	--