

APPEALS AGAINST CONVICTIONS AND THE POWERS OF APPELLATE COURTS

by

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Abstract

An appeal against conviction is a vital safeguard in criminal justice. It enables a superior court to examine whether the trial court correctly appreciated the evidence, applied the law, followed fair procedure and imposed a lawful sentence. In India, the right of appeal is statutory and is principally governed, for proceedings under the current procedural law, by Chapter XXXI of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). Sections 413 to 435 regulate the availability and procedure of appeals, while section 427 specifies the principal powers of the appellate court. These powers include dismissal of an appeal, reversal of a conviction, acquittal or discharge, alteration of the finding, modification of sentence and, in appropriate cases, an order for retrial. Such authority is broad, but it is not arbitrary. It must be exercised in accordance with the presumption of innocence, the prosecution's burden of proving guilt beyond reasonable doubt, the right to a fair hearing and the requirement that judicial reasons be recorded. This paper examines the statutory framework for appeals against conviction, the scope and limits of appellate review, and the leading decisions of the Supreme Court of India on reappreciation of evidence, retrial, sentencing and reasoned judgments. It also considers the distinction between an appeal against conviction and an appeal against acquittal, the procedural protections available to an accused, and practical challenges such as delay and inadequate legal assistance. The paper argues that an effective appellate system must correct material errors without turning every appeal into an automatic retrial. Clear reasons, timely disposal, careful scrutiny of evidence and access to legal aid are essential to maintain public confidence in criminal adjudication.

Keywords: Criminal appeal, conviction, appellate court, BNSS, section 427, reappraisal of evidence, retrial, sentence, fair trial.

I. INTRODUCTION

A criminal conviction may affect a person's liberty, reputation, livelihood and family life. For this reason, the legal system must provide a meaningful method of reviewing a conviction when the accused believes that the trial court has committed an error. An appeal performs this function. It permits a higher court to examine the record, hear the parties and decide whether the conviction and sentence can legally stand. The appellate process is not merely a formality; it is one of the principal safeguards against wrongful conviction and miscarriage of justice.¹

At the same time, the appellate court must balance the rights of the convicted person with the legitimate interests of victims and society in the fair enforcement of criminal law. An appeal cannot be decided only on sympathy or dissatisfaction with the result. The court must examine the evidence and legal grounds in a disciplined manner. A conviction can be reversed where the evidence does not establish guilt beyond reasonable doubt, where material evidence has been ignored or misread, where the law has been wrongly applied, or where a serious procedural irregularity has caused prejudice. Conversely, a conviction should not be disturbed merely because another view is imaginable if the trial court's conclusion is supported by reliable evidence and the correct legal principles.

The procedural framework has changed with the commencement of the Bharatiya Nagarik Suraksha Sanhita, 2023 on 1 July 2024. Chapter XXXI of the BNSS deals with appeals. Section 415 provides the principal routes for appeals from convictions, and section 427 sets out the powers of an appellate court. These provisions substantially continue the approach formerly contained in sections 374 and 386 of the Code of Criminal Procedure, 1973. Decisions interpreting the earlier Code therefore remain important in understanding the corresponding provisions, subject to the text of the BNSS and applicable transitional rules.²

¹ Constitution of India, art. 21; see also *Hussainara Khatoon v State of Bihar*, (1980) 1 SCC 81 (speedy trial as an aspect of fair procedure).

² Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46 of 2023, ch. XXXI; Code of Criminal Procedure, 1973, ss. 374, 386 (repealed subject to applicable savings and transitional rules).

This paper studies the legal basis of appeals against conviction and the powers of appellate courts in India. It explains the statutory structure, the grounds and procedure of appeal, the court's authority over findings and sentences, and the judicial principles that control the exercise of those powers.

II. RESEARCH METHODOLOGY

This paper adopts a doctrinal method of legal research. It analyses statutory provisions, reported judgments of the Supreme Court of India and established principles of criminal procedure. Primary sources include the BNSS, the Constitution of India and judicial decisions. Secondary materials are used to explain the purpose and practical operation of appellate review. The study is analytical and descriptive: it first identifies the legal framework and then evaluates how courts have interpreted the scope of appellate powers.

III. STATUTORY FRAMEWORK GOVERNING CRIMINAL APPEALS

A. Statutory foundation and availability of appeal

Section 413 of the BNSS states the general rule that no appeal lies from a judgment or order of a criminal court unless the Sanhita or another law provides for it. The right of appeal is therefore a creature of statute, not an unlimited inherent right. The same section recognises a victim's right to appeal against an acquittal, conviction for a lesser offence or an order imposing inadequate compensation; such appeal lies to the court to which an appeal against conviction from that court would ordinarily lie. This provision reflects the need to recognise victims' interests while keeping appellate jurisdiction within the limits laid down by legislation.³

Section 415 identifies the courts to which a convicted person may appeal. Broadly, a person convicted in a trial conducted by a High Court in its extraordinary original criminal jurisdiction may appeal to the Supreme Court. A person convicted by a Sessions Judge or Additional Sessions Judge, or in a trial where the prescribed sentence of imprisonment exceeding seven years has been imposed, may appeal to the High Court. Other convictions by Magistrates are generally appealable to the Court of Session, subject to the statutory exceptions. The proper forum must be identified from the court of conviction, the nature of the trial, the sentence and any special enactment governing the offence.⁴

³ Bharatiya Nagarik Suraksha Sanhita, 2023, s. 413.

⁴ Bharatiya Nagarik Suraksha Sanhita, 2023, s. 415.

The right to appeal should be distinguished from the right to file a revision petition. An appeal allows the appellate court to reconsider the case within the statutory appellate jurisdiction. Revision is a narrower supervisory remedy intended to correct jurisdictional or serious legal irregularities in circumstances where revision is permitted. The two remedies are not interchangeable, and the availability of one does not automatically create the other.

B. Institution and processing of an appeal

The BNSS contains procedural requirements governing the form and processing of appeals. Section 423 deals with the petition of appeal and ordinarily requires the appellant or authorised advocate to present a written petition accompanied by a copy of the judgment or order appealed against, subject to the statutory rules. The grounds should identify the alleged errors with sufficient clarity so that the prosecution and the appellate court understand the challenge. A general assertion that the judgment is wrong is less useful than a ground explaining, for example, that a material contradiction was overlooked or that a legal ingredient of the offence was not proved.⁵

Under section 425, the appellate court may dismiss an appeal summarily where the statutory conditions for summary dismissal are satisfied, but the procedure must preserve the required opportunity of hearing and the safeguards applicable to the particular appeal. Where the appeal proceeds, the appellate court calls for the record when necessary and hears the parties. The prosecution is entitled to answer the appellant's grounds, while the accused must receive a meaningful opportunity to present the challenge to the conviction. The requirement of a fair hearing is especially important where liberty is at stake.

Section 430 addresses suspension of sentence pending appeal and release of the appellant on bail in circumstances covered by that provision. Suspension is not the same as setting aside a conviction. It is an interim measure intended to regulate the execution of the sentence while the appeal remains undecided. Whether relief should be granted depends on the statutory conditions, the nature of the offence, the sentence, the likelihood of the appeal being heard within a reasonable time and the other relevant circumstances. An application for suspension should not be treated as a final determination of the merits.⁶

⁵ Bharatiya Nagarik Suraksha Sanhita, 2023, ss. 423, 425.

⁶ Bharatiya Nagarik Suraksha Sanhita, 2023, s. 430.

IV. SCOPE OF APPELLATE POWERS UNDER SECTION 427 BNSS

Section 427 is the central provision dealing with the powers of the appellate court. After examining the record and hearing the appellant or advocate and the Public Prosecutor, where they appear, the court may dismiss the appeal if it finds no sufficient ground for interference. In an appeal against conviction, however, the provision gives the court several alternatives. The breadth of these powers allows the appellate court to correct different kinds of error while tailoring the remedy to the facts of the case.⁷

A. Reversal of conviction: acquittal or discharge

Under section 427(b)(i), the appellate court may reverse the finding and sentence and acquit or discharge the accused. This is appropriate where the prosecution evidence, even when assessed as a whole, does not prove the offence beyond reasonable doubt; where a necessary ingredient is missing; where inadmissible or unreliable material was decisive; or where the trial court's conclusions cannot reasonably be sustained on the record. The appellate court must give reasons that demonstrate how the evidence and law lead to its conclusion.

Acquittal is not justified merely because the appellate judge would have preferred a different expression or sequence of reasoning. The material question is whether the conviction is legally sustainable. The appellate court must examine the prosecution case as a whole, consider the defence where relevant, and avoid isolating one sentence or one piece of evidence from the surrounding circumstances. The burden of proving guilt remains on the prosecution, and doubt must be assessed rationally rather than through speculation.

B. Power to order retrial

Section 427(b)(i) also permits an order for retrial by a competent subordinate court or commitment for trial, where legally appropriate. Retrial is an exceptional remedy because it imposes additional expense and delay on the parties and may expose an accused to renewed proceedings. It should not be ordered simply to give the prosecution a second opportunity to fill gaps in its case or to allow the trial court to rewrite reasons after the event. A retrial may be justified where a serious illegality or procedural failure has undermined the fairness or validity of the original trial, where the court lacked jurisdiction, or where there was in substance no proper trial.

⁷ Bharatiya Nagarik Suraksha Sanhita, 2023, s. 427.

In *Ajay Kumar Ghoshal v State of Bihar*, the Supreme Court emphasised that retrial is an exceptional power and must be used only when the circumstances justify it; it is not a routine response to an unsatisfactory judgment. The appellate court should consider whether the defect can be corrected by deciding the appeal on the existing record. If the evidence is sufficient to reach a lawful conclusion, the court should ordinarily do so rather than order a fresh trial unnecessarily.⁸

C. Alteration of the finding

Section 427(b)(ii) empowers the appellate court to alter the finding while maintaining the sentence. This may be relevant where the evidence proves a legally sustainable offence different from the one found by the trial court, subject to the requirements of law, the charges, the opportunity of defence and the prohibition against causing prejudice. The court cannot use this power to bypass the essential procedural protections of a criminal trial. Any alteration must be supported by the record and must identify the legal basis on which the modified finding is reached.

D. Modification of sentence

Under section 427(b)(iii), the appellate court may, with or without altering the finding, modify the nature or extent of the sentence, but it cannot enhance the sentence in an appeal from conviction under this clause. The power permits the court to correct a sentence that is legally impermissible, disproportionate or based on irrelevant considerations. Sentencing must reflect the gravity of the offence, the role of the offender, relevant aggravating and mitigating circumstances, statutory minimums and maximums, and the objectives of punishment.⁹

A sentence is not to be reduced automatically because the accused has filed an appeal or because time has passed. Equally, a court should not impose a harsh sentence without considering relevant mitigating circumstances and the statutory framework. The appellate court's task is to ensure that the sentence is lawful and reasoned, not to substitute an unexplained personal preference for the trial court's discretion.

⁸ *Ajay Kumar Ghoshal v State of Bihar*, (2017) 12 SCC 699.

⁹ *Bharatiya Nagarik Suraksha Sanhita*, 2023, s. 427, provisos.

E. Consequential and incidental directions

Section 427(e) authorises amendments and consequential or incidental orders that are just and proper. This provision enables the appellate court to make orders necessary to give effect to its decision. It does not confer an unlimited power to disregard specific statutory restrictions. Any incidental direction must remain connected to the appeal and must be consistent with the rights of the parties and the governing legislation.

V. PRINCIPLES GOVERNING APPELLATE REVIEW OF EVIDENCE

A. Reappreciation of the evidentiary record

An appellate court hearing a criminal appeal is not generally confined to checking whether the trial court's view was possible. It may review and reappreciate the evidence and reach its own conclusions on questions of fact and law. In *Chandrappa v State of Karnataka*, the Supreme Court summarised the principles governing appeals against acquittal, explaining that the appellate court has full power to review, reappreciate and reconsider the evidence.⁷ Although *Chandrappa* concerned an acquittal, its discussion of the breadth of appellate review illustrates the general importance of independent judicial assessment, while the special caution applicable to acquittals must be kept distinct from an appeal against conviction.¹⁰

In an appeal against conviction, the court should scrutinise whether witness testimony is reliable, whether contradictions are material or minor, whether documentary and electronic evidence has been properly proved, and whether the trial court applied the correct burden of proof. It should also consider whether the prosecution has established the required connection between the accused and the offence. A conclusion cannot be sustained merely because the allegation is serious; seriousness increases the importance of careful evaluation.

B. Presumption of innocence and standard of proof

The presumption of innocence is a foundational principle of criminal law. The prosecution must prove guilt beyond reasonable doubt, and the accused is not required to establish innocence. In an appeal against conviction, the appellate court must examine whether the trial court respected this standard. If the conviction rests on conjecture, an impermissible reversal of the burden of proof or evidence that does not exclude reasonable doubt, appellate intervention is warranted.¹¹

¹⁰ *Chandrappa v State of Karnataka*, (2007) 4 SCC 415.

¹¹ Constitution of India, art. 21.

The principle does not mean that every minor inconsistency requires acquittal. Human recollection is imperfect, and minor discrepancies may occur without undermining the core of a witness's account. The court must distinguish between contradictions that affect the essential prosecution story and those that are peripheral. The assessment must be contextual, reasoned and based on the whole record.

C. Duty to give reasons and address material evidence

An appellate judgment should identify the grounds raised, state the relevant legal principles, evaluate the material evidence and explain why the conviction is affirmed, modified or reversed. It need not reproduce every line of testimony, but it must deal with significant submissions and evidence capable of affecting the result. Failure to consider a material defence, a major contradiction, an essential statutory ingredient or a relevant forensic report may amount to an error requiring correction.

The obligation to give reasons supports transparency and allows the parties and a reviewing court to understand the basis of the decision. It also discourages arbitrary conclusions. An appellate court should avoid merely repeating the trial court's conclusions where a substantial challenge has been raised; it should demonstrate that the challenge has been independently considered.

VI. JUDICIAL APPROACH: AN ANALYSIS OF LEADING DECISIONS

A. Chandrappa v. State of Karnataka

In *Chandrappa v State of Karnataka*, the Supreme Court explained the principles governing the appellate court's powers in an appeal against acquittal. It held that the appellate court can review and reappreciate the evidence and reach its own conclusions on fact and law. It also stressed that an acquittal reinforces the presumption of innocence and that where two reasonable views are possible, the view favouring the accused should ordinarily prevail.⁸ The case is relevant because it explains the distinction between the existence of appellate power and the prudential restraint governing its exercise. In an appeal against conviction, the court must likewise exercise its powers on the basis of evidence and reasons rather than a mechanical preference for the trial court's conclusion.¹²¹³

¹² Ibid.

¹³ *Chandrappa v State of Karnataka*, (2007) 4 SCC 415, paras 42–43.

B. Ghurey Lal v. State of Uttar Pradesh

In *Ghurey Lal v State of Uttar Pradesh*, the Supreme Court reviewed the principles applicable when an appellate court reverses an acquittal. It recognised the appellate court's broad power to examine evidence but required due weight to be given to the trial court's assessment, especially where credibility depends on observing witnesses. The case cautions against confusing a broad legal power with unrestricted or unreasoned interference. Its general lesson for appellate adjudication is that conclusions must be evidence-based and reasons must show why the challenged decision is unsustainable.¹⁴¹⁵

C. Ajay Kumar Ghoshal v. State of Bihar

Ajay Kumar Ghoshal v State of Bihar concerned the limits of the power to order retrial. The Supreme Court held that retrial should be ordered only in exceptional circumstances where the original proceedings are vitiated by serious illegality or a failure of justice. The decision is significant for appeals against conviction because it protects the accused from repeated proceedings that are not necessary to secure justice. An appellate court should first consider whether it can decide the appeal on the existing evidence and should use retrial only where a lawful and fair determination cannot otherwise be achieved.¹⁶

D. State of Punjab v. Madan Mohan Lal Verma

In *State of Punjab v Madan Mohan Lal Verma*, the Supreme Court reiterated that criminal guilt must be established beyond reasonable doubt and that suspicion, however strong, cannot take the place of proof. The principle applies directly to appellate scrutiny of convictions. When the trial court has treated suspicion as proof or failed to examine whether the evidence satisfies the criminal standard, the appellate court must correct the error. The judgment reinforces the distinction between a plausible allegation and legally sufficient proof.¹⁷¹⁸

VII. CONSTITUTIONAL AND PROCEDURAL LIMITS ON APPELLATE POWERS

The powers under section 427 are broad but controlled by statute, natural justice and constitutional values. First, the appellate court must act within the jurisdiction conferred by law. Secondly, it must provide the hearing required by the applicable procedure. Thirdly, it must give

¹⁴ *Ghurey Lal v State of Uttar Pradesh*, (2008) 10 SCC 450.

¹⁵ *Ghurey Lal v State of Uttar Pradesh*, (2008) 10 SCC 450.

¹⁶ *Ajay Kumar Ghoshal v State of Bihar*, (2017) 12 SCC 699.

¹⁷ *State of Punjab v Madan Mohan Lal Verma*, (2013) 14 SCC 153.

¹⁸ *State of Punjab v Madan Mohan Lal Verma*, (2013) 14 SCC 153.

reasons for decisions that affect liberty. Fourthly, it must respect the prosecution's burden of proof and the accused's right to a fair trial. These requirements prevent appellate review from becoming arbitrary.

The proviso to section 427 is particularly important where enhancement of sentence is sought. A sentence cannot be enhanced unless the accused has been given an opportunity to show cause against the proposed enhancement. The court must also observe the statutory ceiling on punishment that could have been imposed by the court passing the order under appeal.¹² These safeguards are necessary because an appeal by the accused should not unexpectedly expose the accused to a greater punishment without notice and a fair opportunity to respond.¹⁹

The appellate court must also distinguish between an error that affects the outcome and an inconsequential irregularity. Not every procedural imperfection automatically invalidates a conviction. The court should examine the nature of the defect, the prejudice caused, the relevant statutory provision and whether the trial as a whole remained fair. On the other hand, a serious violation affecting jurisdiction, the right to defend, or the reliability of the verdict cannot be dismissed as a technicality.

A further limit concerns the use of additional evidence. The power to receive additional evidence in appeal is governed by the relevant statutory provision and is not intended to enable a party to repair a case merely because its original evidence was weak. The power should be used where the interests of justice require it and the reasons for receiving such evidence are clearly recorded. The accused must have a fair opportunity to challenge evidence introduced at the appellate stage.

VIII. STRUCTURAL CHALLENGES IN THE APPELLATE PROCESS

Delay is one of the most serious practical difficulties. When an appeal remains pending for years, a person serving a sentence may spend a substantial period in custody before the appellate court determines whether the conviction is sustainable. Delay can also affect victims and witnesses, weaken public confidence and make finality uncertain. Effective case management, accurate digital records and priority for appeals involving persons in custody can reduce these harms.

A second challenge is the quality of legal assistance. Criminal appeals often involve complex records, lengthy depositions, forensic material and technical questions of law. An appellant who cannot afford competent representation may struggle to identify the strongest grounds.

¹⁹ Bharatiya Nagarik Suraksha Sanhita, 2023, s. 427.

Meaningful legal aid, access to certified copies and clear communication about appeal deadlines are therefore essential to make the statutory right effective.

A third challenge is the tendency to draft grounds of appeal in broad and repetitive language. Appeals are more effective when grounds identify precise errors, connect them to the record and explain their legal significance. Appellate courts can assist the administration of justice by identifying the real issues, avoiding unnecessary adjournments and delivering reasoned decisions without reproducing the entire trial record.

Finally, appellate courts must avoid both extremes: excessive deference that allows serious errors to remain uncorrected, and unnecessary interference that undermines finality and trial-court responsibility. The appropriate approach is independent, evidence-based review within the legal framework. The aim is not to secure a particular outcome but to ensure that the outcome is lawful and just.

IX. CRITICAL ANALYSIS

The statutory structure of the BNSS recognises that appellate review is an essential part of criminal procedure. Section 415 identifies the route of appeal, while section 427 provides a flexible set of remedies. This arrangement allows the appellate court to match the remedy to the error: acquittal where guilt is not proved, alteration of the finding where legally justified, sentence modification where necessary, and retrial only where the original proceedings cannot fairly support a final decision.

The case law demonstrates that appellate power must be understood together with principles governing its exercise. Chandrappa and Ghurey Lal explain the breadth of review and the importance of reasoned assessment, particularly in appeals against acquittal. Ajay Kumar Ghoshal limits retrial to exceptional circumstances. Madan Mohan Lal Verma reinforces the requirement of proof beyond reasonable doubt. Read together, these decisions support an approach that is both corrective and restrained: courts must intervene where the record discloses a material legal or evidentiary error, but should not order unnecessary retrials or substitute bare preference for judicial reasoning.

The transition from the CrPC to the BNSS also makes careful statutory citation important. Section 427 BNSS corresponds substantially to section 386 CrPC, and section 415 broadly occupies the field previously addressed by section 374 CrPC. However, researchers and practitioners should cite the law applicable to the proceedings and should not assume that all

procedural questions are identical in every case. Transitional provisions, the date of the alleged offence and the stage of proceedings may affect which procedural regime applies.

The study finds that the effectiveness of appellate powers depends not only on the text of the law but also on the quality and timeliness of their exercise. A statutory remedy offers limited protection if the record is incomplete, representation is inadequate or judgment is delayed. Institutional improvements are therefore as important as doctrinal clarity.

X. CONCLUSION

Appeals against conviction are a central safeguard against wrongful conviction and unlawful punishment. Under the BNSS, section 415 identifies the principal routes of appeal, while section 427 empowers appellate courts to dismiss an appeal, reverse a conviction, acquit or discharge the accused, alter a finding, modify a sentence or order retrial in an appropriate case. These powers allow courts to correct errors of fact, law and procedure, but their exercise must remain disciplined by the statutory text, fair-hearing requirements and the presumption of innocence.

The leading decisions show that appellate review must be independent, reasoned and proportionate to the error identified. Retrial is exceptional; suspicion cannot replace proof; and sentence enhancement requires a fair opportunity to be heard. The effectiveness of the appellate system further depends on timely disposal, competent legal representation and clear judgments. A balanced approach—neither blind deference nor unnecessary interference—best serves the accused, victims and the public interest. By exercising statutory powers carefully and transparently, appellate courts can strengthen the fairness, reliability and credibility of criminal justice in India.

REFERENCES

Legislation

The Constitution of India.

The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act No. 46 of 2023).

The Code of Criminal Procedure, 1973 (repealed subject to applicable savings and transitional rules).

Cases

Ajay Kumar Ghoshal v State of Bihar, (2017) 12 SCC 699.

Chandrappa v State of Karnataka, (2007) 4 SCC 415.

Ghurey Lal v State of Uttar Pradesh, (2008) 10 SCC 450.

Hussainara Khatoon v State of Bihar, (1980) 1 SCC 81.

State of Punjab v Madan Mohan Lal Verma, (2013) 14 SCC 153.

Online References

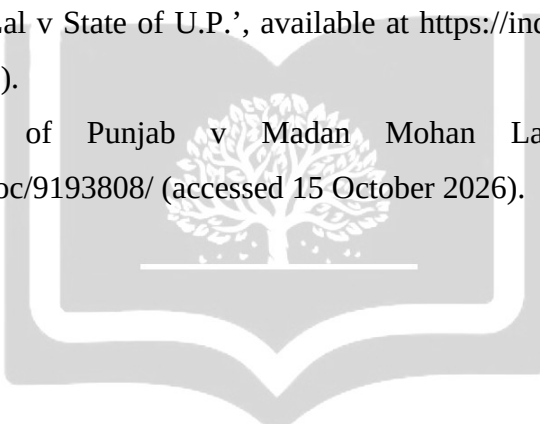
Bureau of Police Research and Development, The Bharatiya Nagarik Suraksha Sanhita, 2023, available at https://bprd.nic.in/uploads/pdf/Final_BNSS.pdf (accessed 15 October 2026).

India Code / eCourts India, 'Section 427—Powers of Appellate Court', available at <https://indiacode.ecourtsindia.com/bnss/section/427/> (accessed 15 October 2026).

Indian Kanoon, 'Chandrappa v State of Karnataka', available at <https://indiankanoon.org/doc/761643/> (accessed 15 October 2026).

Indian Kanoon, 'Ghurey Lal v State of U.P.', available at <https://indiankanoon.org/doc/127405/> (accessed 15 October 2026).

Indian Kanoon, 'State of Punjab v Madan Mohan Lal Verma', available at <https://indiankanoon.org/doc/9193808/> (accessed 15 October 2026).



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