

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. Appeal No. 203 of 2015****Reserved on: 16.09.2026****Date of Decision: 25.09.2026.**

State of H.P.

...Appellant

Versus

Devi Ram

...Respondent

*Coram**Hon'ble Mr Justice Rakesh Kainthla, Judge.**Whether approved for reporting?¹ No.*For the Appellant/State : Mr Tarun Pathak, learned
Deputy Advocate General.

For the respondents : Mr Vipin Rajta, Advocate.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 25.10.2014 passed by the learned Sessions Judge, Shimla (learned Appellate Court) vide which the judgment of conviction dated 22.12.2009 and order of sentence dated 23.12.2009, passed by the learned Judicial Magistrate First Class, Court No. 5, Shimla (learned Trial Court) were set aside. *(The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience).*

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

2. Briefly stated, the facts giving rise to the present appeal are that the police presented a challan before the learned Trial Court against the accused for the commission of offences punishable under Sections 279, 337, and 338 of the Indian Penal Code (IPC). It was asserted that a bus bearing registration number HP-07-3115 was being reversed on 3.9.2002, at about 11:00 AM. The driver stopped the bus, and the informant Rakesh Kumar (PW2) started getting down the stairs. However, the driver suddenly reversed the bus and hit the informant's right leg. The people shouted for help, and the driver stopped the bus. The accident occurred because of the driver's negligence. The injured was taken to the hospital, and intimation was given to the police.

3. HC Chandermani (PW-8) went to the hospital for verification. He recorded the informant's statement (Ext.PW-2/A) and sent it to the Police Station, where FIR (Ext.PW-8/A) was registered. He filed an application (Ext.PW-8/B) for conducting the informant's medical examination. Dr Krishan Anand (PW-9) conducted the informant's medical examination and found that he had sustained an injury to his right lower leg. He advised an X-ray, and the nature of the injury

was found to be grievous. He issued the MLC (Ext. PW-9/A) stating that the injury sustained by the informant was grievous, which could have been caused in a motor vehicle accident.

4. HC Chandermani (PW8) investigated the matter. He visited the spot and prepared the site plan (Ext.PW-8/C). He seized the bus bearing registration No. HP-07-3115 along with the documents vide memo (Ext. PW-4/A). Santosh Kumar (PW-5) took the photographs (Ext. PW-5/A-1 to Ext. PW-5/A-2), whose negatives are Ext.PW-5/A-3 to Ext.PW-5/A-4. SI Roop Lal (PW6) mechanically examined the bus and found that it had no defect in it that could have led to the accident. He issued the report (Ext.PW-6/A). The statements of witnesses were recorded as per their version, and after the completion of the investigation, the challan was prepared and presented before the learned Trial Court.

5. The learned Trial Court found sufficient reasons to summon the accused. When the accused appeared, a notice of accusation was put to him for the commission of offences punishable under Sections 279, 337, and 338 of the IPC, to which he pleaded not guilty and claimed to be tried.

6. The prosecution examined nine witnesses to prove its case. Krishan Kumar Sethi (PW-1) and Surender Kumar (PW-3) are eyewitnesses. Rakesh Kumar (PW-2) is the informant/injured. Uttam Chand (PW-4) witnessed the recovery. Santosh Kumar (PW-5) took the photographs. Roop Lal (PW-6) conducted the mechanical examination of the bus. Salig Ram (PW-7) produced the documents. Chandermani (PW-8) investigated the matter. Dr Krishan Anand (PW-9) conducted the medical examination of the injured.

7. The accused, in his statement recorded under Section 313 of the Code of Criminal Procedure (CrPC), denied the prosecution case in its entirety. He claimed that the bus was stationary and had not caused any accident. He claimed that he was innocent and was falsely implicated.

8. The learned Trial Court held that the testimonies of the informant and eyewitnesses corroborated each other. They consistently stated that the accused was driving the bus without a conductor. The bus had crushed the informant's right leg. The place of the incident was narrow, the bus stand remains heavily crowded, and the accused was supposed to drive the bus with due

care and caution. He failed to do so. Hence, the learned Trial Court convicted and sentenced the accused.

9. Being aggrieved by the judgment and order passed by the learned Trial Court, the accused filed an appeal, which was decided by the learned Sessions Judge, Shimla (learned Appellate Court). The learned Appellate Court held that driving the bus or reversing the bus without the help of a conductor can be a *prima facie* case of negligence. However, the informant had not mentioned in his statement recorded under Section 154 Cr.PC (Ext. PW-2/A) that the bus had no conductor. A person cannot be convicted merely because an accident had taken place. The statements of the witnesses contradicted each other, and it was difficult to rely upon the prosecution version. Hence, the learned Appellate Court accepted the appeal and set aside the judgment and order passed by the learned Trial Court.

10. Being aggrieved by the judgment passed by the learned Appellate Court, the State has filed the present appeal, asserting that the learned Appellate Court erred in reversing the well-reasoned judgment passed by the learned Trial Court. Minor contradictions were blown out of proportion to record the

acquittal. The testimonies of the informant and eyewitnesses corroborated each other, and the learned Trial Court had rightly accepted them. The accused never disputed that he was driving the bus at the time of the accident, and the identification of the accused was not material. Hence, it was prayed that the present appeal be allowed and the judgment passed by the learned Appellate Court be set aside.

11. I have heard Mr Tarun Pathak, learned Deputy Advocate General for the appellant-State, and Mr Vipin Rajta, learned counsel for the respondent/accused.

12. Mr Tarun Pathak, learned Deputy Advocate General for the appellant-State, submitted that the learned Appellate Court erred in acquitting the accused. The testimonies of the informant and eyewitnesses corroborated each other in material particulars. The learned Appellate Court discarded the testimonies based on minor contradictions in the statements, which are bound to occur over time. The accused was reversing the bus without the help of a conductor, which was the proximate cause of the accident. Therefore, he prayed that the present

appeal be allowed and the judgment passed by the learned Appellate Court be set aside.

13. Mr Vipin Rajta, learned counsel for the respondent/accused, submitted that the statements of prosecution witnesses contradicted each other on material aspects, and the learned Appellate Court had rightly held that no reliance can be placed upon these testimonies. The learned Appellate Court had taken a reasonable view while acquitting the accused, and this Court should not interfere with the reasonable view of the Court acquitting the accused while deciding an appeal against acquittal. Hence, he prayed that the present appeal be dismissed.

14. I have considered the submissions made at the Bar and have gone through the records carefully.

15. The present appeal has been filed against a judgment of acquittal. It was laid down by the Hon'ble Supreme Court in *Sanjay Kumar v. State of Bihar*, 2026 SCC OnLine SC 1373, that the Court can interfere with a judgment of acquittal only if it is impossible, perverse, wholly unsustainable, or manifestly illegal. It was observed:

Scope of interference with an acquittal:

26. At the outset, it is necessary to remind ourselves of the settled principles governing interference with an order of acquittal. An accused is presumed innocent until proven guilty. When a court of competent jurisdiction acquits the accused, the presumption of innocence is not weakened but reinforced. Where such acquittal is affirmed by the High Court, the caution to be exercised by this Court under Article 136 is even greater.

27. In *Kali Ram v. State of Himachal Pradesh* (1973) 2 SCC 808: 1973 SCC (Cri) 1048, this Court explained the golden thread running through criminal jurisprudence in the following words:

*“25. Another golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. This principle has a special relevance in cases wherein the guilt of the accused is sought to be established by circumstantial evidence. A rule has accordingly been laid down that unless the evidence adduced in the case is consistent only with the hypothesis of the guilt of the accused and is inconsistent with that of his innocence, the Court should refrain from recording a finding of guilt of the accused. It is also an accepted rule that in case the Court entertains reasonable doubt regarding the guilt of the accused, the accused must have the benefit of that doubt. Of course, the doubt regarding the guilt of the accused should be reasonable; it is not the doubt of a mind which is either so vacillating that it is incapable of reaching a firm conclusion or so timid that it is hesitant and afraid to take things to their natural consequences. The rule regarding the benefit of doubt also does not warrant acquittal of the accused by resort to surmises, conjectures or fanciful considerations. As mentioned by us recently in the case of *State of Punjab v. Jagir Singh*, a criminal trial is not like a fairy tale wherein*

one is free to give flight to one's imagination and fantasy. It concerns itself with the question as to whether the accused arraigned at the trial is guilty of the offence with which he is charged. Crime is an event in real life and is the product of the interplay of different human emotions. In arriving at the conclusion about the guilt of the accused charged with the commission of a crime, the Court has to judge the evidence by the yardstick of probabilities, intrinsic worth and the animus of witnesses. Every case in the final analysis would have to depend upon its own facts. Although the benefit of every reasonable doubt should be given to the accused, the Courts should not at the same time reject evidence which is ex facie trustworthy on grounds which are fanciful or in the nature of conjectures.”

28. The decision in *Kali Ram* (supra) further cautions that wrongful acquittal and wrongful conviction do not stand on the same footing, for conviction of an innocent person causes grave injustice and shakes public confidence in the administration of criminal justice. The rule of benefit of doubt, therefore, is not technical; it is a substantive safeguard flowing from the presumption of innocence.

29. In *Ghurey Lal v. State of Uttar Pradesh* (2008) 10 SCC 450 : (2009) 1 SCC (Cri) 60, this Court reiterated the limited scope of interference with acquittals. This Court observed:

“75. The Trial Court has the advantage of watching the demeanour of the witnesses who have given evidence; therefore, the appellate court should be slow to interfere with the decisions of the Trial Court. An acquittal by the Trial Court should not be interfered with unless it is totally perverse or wholly unsustainable.”

30. The decision in *Ghurey Lal* (supra) also crystallised certain propositions: first, there is a double presumption of innocence in favour of an acquitted accused; secondly, if two views are possible, the view favourable to the accused must prevail; thirdly, though the appellate court has the

power to reappreciate evidence, it should interfere only when the acquittal is manifestly illegal, perverse or results in miscarriage of justice; and fourthly, due weight must be given to the Trial Court's findings, particularly because the trial judge had the advantage of observing the demeanour of witnesses.

31. In *Chandrappa v. State of Karnataka* (2007) 4 SCC 415 : (2007) 2 SCC (Cri) 325, this Court held that though the appellate court has full power to review and reappreciate the evidence, the presumption of innocence is strengthened by an order of acquittal. It was held that when two reasonable conclusions are possible on the basis of evidence on record, the appellate court should not disturb the finding of acquittal.

32. The same principle was restated in *Mrinal Das v. State of Tripura* (2011) 9 SCC 479, wherein this Court held that an order of acquittal is to be interfered with only when there are compelling and substantial reasons for doing so. If two reasonable views are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal.

33. Therefore, the question before us is not whether another view on the evidence is possible. The question is whether the view taken by the Trial Court and affirmed by the High Court is impossible, perverse, wholly unsustainable, or manifestly illegal. Having examined the record, we are unable to hold so.

16. The present appeal has to be decided as per the parameters laid down by the Hon'ble Supreme Court.

17. Krishan Kumar (PW-1) stated that he was going towards Tara Hall on 3.9.2002. A bus bearing registration No. HP-07-3115 was being reversed. The informant, Rakesh Kumar, was getting down the stairs. The driver suddenly reversed the

bus, and the bus hit the informant's right leg. The accident occurred because of the negligence of the accused. The injured was taken to the hospital.

18. Rakesh Kumar (PW-2) stated that he was going towards Tara Hall on 3.9.2002, and was getting down the stairs. A bus was being reversed. The bus stopped, and he started getting down. The driver suddenly reversed the bus and hit his right leg, which was trapped between the bus and the stairs. The bus was stopped by the people.

19. Surender Kumar (PW-3) stated that a bus was being reversed on 3.9.2002, at about 11:00 AM, and the informant was getting down the stairs. The conductor's side hit the informant, and the informant sustained an injury to his right leg. The people shouted, and the driver stopped the bus. He admitted in his cross-examination that the accident had not occurred in his presence.

20. The statements of Krishan Kumar (PW-1) and Rakesh Kumar (PW-2) do not corroborate each other. Rakesh Kumar stated that the bus had initially stopped and again started when he started getting down the bus. Krishan Kumar (PW-1) stated

that Rakesh Kumar was getting down the stairs and the bus suddenly reversed. He has not stated that the bus had initially stopped and thereafter it was suddenly started. Rakesh Kumar (PW-2) stated that his leg was trapped between the stairs and the bus, whereas Krishan Kumar (PW-1) did not state that the informant's leg was trapped between the stairs and the bus.

21. Krishan Kumar (PW-1) admitted that he was a welder and Rakesh Kumar was also a welder. He and the informant had to go to Tara Hall together. Both of them had met each other at Rivoli at 9:00 AM. He could not say whether the bus was private or owned by HRTC. He was told by someone that an accident had taken place.

22. Rakesh Kumar (PW-2) stated that Krishan Kumar met him at 9:30 AM. They reached the spot within 15 to 20 minutes. Many buses were being reversed on the spot. Krishan Kumar had crossed the bus.

23. The cross-examination of these witnesses shows that Krishan Kumar and the informant were known to each other and were going together. Significantly, the statement (Ext.PW-2/A) does not mention the name of Krishan Kumar as the person

accompanying the informant. The informant had also not stated that he and Krishan Kumar were getting down together. Therefore, in these circumstances, the learned Appellate Court was justified in doubting the informant's testimony.

24. Surender Kumar stated in his cross-examination that the accident had not occurred in his presence. He was not re-examined, which means that his testimony in the cross-examination was accepted as correct. Therefore, he cannot be held to be an eyewitness.

25. Krishan Kumar stated that there was no conductor in the bus at the time of the accident. However, the informant has not stated any such fact. Therefore, the learned Appellate Court was justified in concluding that the prosecution version that the bus was being reversed without the conductor was not proved.

26. The learned Appellate Court had rightly held that the mere fact that an accident had taken place is not sufficient to convict a person. The prosecution was required to prove the negligence of the accused. The statements of the informant and eyewitnesses contradicted each other on material aspects, and the learned Appellate Court was justified in discarding the

prosecution version in these circumstances. This was a reasonable view that could have been taken based on the evidence on record, and no interference is required with the reasonable view of the learned Appellate Court while deciding the appeal against acquittal.

27. No other point was urged.

28. In view of the above, the present appeal fails, and it is dismissed. Pending miscellaneous application(s), if any, also stand disposed of.

29. In view of the provisions of Section 437-A of the Code of Criminal Procedure (Section 481 of Bhartiya Nagarik Suraksha Sanhita, 2023) the respondent/accused is directed to furnish bail bonds in the sum of ₹25,000/- with one surety in the like amount to the satisfaction of the learned Trial Court within four weeks, which shall be effective for six months with stipulation that in the event of Special Leave Petition being filed against this judgment, or on grant of the leave, the respondent/accused on receipt of notice thereof, shall appear before the Hon'ble Supreme Court.

30. Records be sent back to the learned Trial Court forthwith, along with a copy of the judgment.

(Rakesh Kainthla)
Judge

25th September, 2026
(Chander)