

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No. 231 of 2015

Reserved on: 14.09.2026

Decided on: 29.09.2026

Uploaded on: 29.09.2026

Jishan Lal

...Petitioner

Versus

State of Himachal Pradesh

...Respondent

Coram

Hon'ble Mr Justice Chirag Bhanu Singh, Judge.

Whether approved for reporting?¹ No.

For the Petitioner : Mr. V. S. Rathore, Advocate.

For the Respondent : Mr. Prashant Sen, Deputy
Advocate General.

Chirag Bhanu Singh, Judge

The present revision petition is directed against the judgment dated 08.05.2015, passed by the learned Additional Sessions Judge (II), Shimla, H.P., Camp at Rohru, vide which the judgment of conviction and order of sentence dated 18.01.2011/24.01.2011, passed by the learned Judicial Magistrate First Class, Court No. 2, Rohru, District Shimla, H.P., were upheld, whereby the accused/petitioner had been sentenced to

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

undergo simple imprisonment for a period of three months and to pay a fine of Rs. 500/- under Section 279 of the Indian Penal Code, in default thereof had been further sentenced to undergo further simple imprisonment for a period of five days and simple imprisonment for a period of six months and to pay a fine of Rs.500/- under Section 338 Indian Penal Code and in case of default thereof to undergo further simple imprisonment for a period of five days. Both the sentences were ordered to run concurrently.

2. The genesis giving rise to the present petition, may be succinctly summarized thus. On 04.11.2019, the accused/petitioner was driving the HRTC bus bearing registration No. HP-07-4113 from Chirgaon to Busari. At about 07:00 PM, when the bus reached near village Busari, the injured, Naresh Kumar (PW-1), was getting down from the bus, when the accused, all of a sudden, drove the bus. In the process, the injured, Naresh Kumar (PW-1), had fallen down and sustained grievous injuries. One Sarita (PW-15) had reached the spot and rushed the injured/complainant to the hospital.

3. The police came to be informed. On the statement of the injured recorded under Section 154 Cr.P.C. (Ex. PW-1/A), FIR (Ex. PW-11/A), was registered. The injured was got medically examined and his MLC (Ex. PW-17/A) was procured. The accident was attributed to the sheer rash and negligent driving of the accused. No mechanical defect was reported in the bus, as is clear from the report (Ex. PW-7/A). After completion of the investigation, the challan came to be presented before the learned Trial Court.

4. Accusations came to be framed under Sections 279, 337 and 338 of the Indian Penal Code. The accused/petitioner had pleaded not guilty and claimed trial.

5. The prosecution, however, examined as many as 17 witnesses to bring home the charges against the accused/petitioner. The accused again denied all the incriminating circumstances adduced against him in his statement under Section 313 Cr.P.C. The streak of defense which emerged from his statement was that the injured had fallen on his own. No defense evidence was, however, led by the accused.

6. The learned Trial Court, on the basis of the evidence adduced before it, found the accused guilty of having committed offenses punishable under Sections 279, 337 and 338 of the Indian Penal Code and convicted and sentenced him, for the substantive sentences mentioned hereinabove.

7. Being aggrieved, the petitioner/accused had filed an appeal before the learned Appellate Court. The learned Appellate Court concurred with the findings recorded by the learned Trial Court holding that when the complainant was alighting from the bus, the accused drove the bus in a rash and negligent manner, crushing the leg of the complainant. It was held that the accused had not taken proper and reasonable care while the injured was deboarding the bus, and the said fact stands clearly established. The appeal thus came to be dismissed.

8. Being aggrieved and dissatisfied with the judgments and orders passed by the learned Courts below, the accused has filed the present revision petition, asserting that the learned Courts below have not only misread but also misinterpreted the evidence. It was contended that PW-15, Sarita, was not even a witness to the occurrence. The testimony of PW-4, Kuldeep

Singh, who witnessed the occurrence, was not reliable and trustworthy. It was further urged that the accused/driver was neither rash nor negligent and that the prosecution had failed to prove the same. Therefore, it was prayed that the present petition be allowed and the judgments and orders passed by the learned Courts below be set aside and quashed.

9. I have heard the learned counsel for the parties and gone through the record meticulously.

10. Before advertng to the merits of the case, it would be apposite to observe that revisional Courts generally do not exercise appellate jurisdiction and would thus generally focus strictly on the correctness, legality or propriety of the order and, as such, would rarely interfere with concurrent findings unless they are entirely perverse. In this behalf, support can be elicited from the recent judgments passed by the Hon'ble Supreme Court in *Malkeet Singh Gill Vs. State of Chhattisgarh* [(2022) 8 SCC 204] and *State of Gujarat Vs. Dilipsinh Kishorsinh Rao* [(2023) 17 SCC 688].

11. Based on the aforesaid enunciation, a reading of the evidence laid on record shows that the injured, Naresh Kumar

(PW1), while appearing as his own witness, deposed that while he was de-boarding the bus, the driver of the bus, i.e. the accused, had all of a sudden driven the bus, and he had fallen down. Resultantly, the rear tyre of the bus had run over his left leg. Kuldeep Singh (PW4), who was also travelling in the bus, further corroborated the version of the injured, Naresh Kumar (PW1). As per him, when Naresh Kumar (PW1) tried to alight, the accused had driven the bus. Consequently, the injured, Naresh Kumar (PW1), had fallen down.

12. The testimony of the witnesses has further been corroborated by Sarita (PW15), who had reached the spot immediately after the occurrence. Though, she was admittedly not present on the spot at the time of the accident but she had reached the spot immediately after the occurrence.

13. It further transpires from the testimony of the victim that though he had raised a hue and cry and had tried to stop the bus, but to no avail.

14. The aforesaid narration hereinabove clearly goes to show that the accused was driving an HRTC Bus, which is a public utility service. The duty expected of him was that he

should have taken due care to ensure that all the passengers had safely boarded the bus. This assumes significance because, admittedly, he was driving a public utility vehicle. The level of care and caution expected of him was much higher than that of the driver of some other vehicle. Strangely, the accused did not even come to know that a person had fallen from the bus. Even the hue and cry raised by the victim went unnoticed and unheeded too. The negligence and rashness are thus writ large from the conduct of the accused.

15. There is no dispute that the accused had been driving the said vehicle at that time. Not only has the prosecution proved so by placing on record the log book vide Ex-P10/C, but the accused himself admitted the said factum in his cross-examination under Section 313 of the Cr. P.C.

16. The defence espoused by the accused was that apparently the victim/complainant himself was drunk and had fallen of his own. Nothing in this regard has emerged on record.

17. The argument of the learned counsel for the petitioner thus cannot be countenanced that the accused driver was neither rash nor negligent. There is also nothing on record

to remotely show that the witnesses are not reliable and trustworthy.

18. Furthermore, in the present case, the accident has also spoken for itself and, as such, the principle of *res ipsa loquitur* also comes into play. To say the least, the very action of the accused in driving the vehicle when the passenger was deboarding is an act of sheer recklessness and indifference. The accused failed to exercise his duty with reasonable and proper care and precaution. It would indeed amount to criminal negligence.

19. The learned counsel for the petitioner has however placed reliance upon a judgment of this Court, titled as ***China Ram Vs. State of H.P. (Criminal Revision No. 59 of 2013)*** to contend that the prosecution was required to prove that the accused had moved the bus without getting the signal from the conductor and nobody asserted any such fact. Based on the aforesaid, the accused had been acquitted. The ratio of the aforesaid judgment may not come to the rescue of the petitioner, as the victim/complainant himself categorically deposed that the

conductor had not given any signal, and the driver had started off without any signal.

20. Thus, no fault can be found with the well reasoned findings returned by the learned Court below.

21. However, during the course of arguments, learned counsel for the petitioner/accused has also urged that, keeping in view the fact that the petitioner/accused has since retired and the case pertains to the year 2009 and keeping in view the nature of injuries sustained by the victim, the benefit of Probation of Offenders Act be extended to the accused.

22. Thus, while upholding the judgments of the learned Trial Court, it is directed that the report of the Probation Officer be called for.

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

24. Report be awaited for 26.10.2026 and the matter be listed on that date.

(Chirag Bhanu Singh)
Judge

29th September, 2026

(Shamsh Tabrez)