

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 4087 of 2013

Reserved on: 22.8.2026

Date of Decision: 31.08.2026.

State of H.P.

...Appellant

Versus

Ramesh Singh

...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

*Whether approved for reporting?*¹ No

For the Appellant : Mr Jitender Sharma, Additional Advocate General.

For the Respondent : Ms Sheetal Kaul, Advocate, vice Mr Naresh Kaul, Advocate.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 24.11.2012 passed by learned Judicial Magistrate First Class, Court No. 1, Dehra, District Kangra, HP (learned Trial Court) vide which the respondent (accused before learned Trial Court) was acquitted of the commission of offences punishable under Sections 279, 337 and 338 of the Indian Penal Code (IPC).

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

(The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience).

2. Briefly stated, the facts giving rise to the present appeal are that the police presented a challan against the accused before the learned Trial Court for the commission of offences punishable under Sections 279, 337 and 338 of the IPC. It was asserted that the informant Sanjay Kumar (PW1) and Rakesh Kumar (PW2) were riding a motorcycle bearing registration No. HP-54-7614 on 04.10.2007. A bus bearing registration No. HP-54A-1677 came from the opposite side at high speed and hit the motorcycle near Bholi Mata at about 9:30. The informant and Rakesh Kumar (PW2) sustained injuries. They were taken to the hospital, and an intimation was given to the police. ASI Yashpal Singh (PW9) went to the hospital and filed an application (Ext.PW9/A) for obtaining the opinion of the Medical Officer regarding the fitness of the injured to make the statement. Dr Ashok Kaushal (PW3) certified the fitness. ASI Yashpal Singh (PW9) recorded the informant's statement (Ext.PW1/A), and sent it to the police station where FIR (Ext.PW9/B) was registered. Dr Ashok Kaushal (PW3) examined Rakesh Kumar (PW2) and Sanjay Kumar (PW1), and found that

they had sustained simple injuries which could have been caused in a Motor Vehicle accident. He issued the reports (Ext.PW3/A and Ext.PW3/B). ASI Yashpal Singh (PW9) visited the spot and prepared the site plan (Ext.PW9/D). Rumel Singh (PW7) took the photographs (Ext.P1 to Ext.P3) of the spot. ASI Yashpal Singh seized the bus bearing registration No. HP-54A-1677 along with documents vide memo (Ext.PW2/A). He seized the motorcycle and the documents vide memo (Ext.PW2/B). He obtained the report of the mechanical examination (Ext.PW9/E) in which it was mentioned that no defect in the vehicle could have led to the accident. The statements of witnesses were recorded as per their version, and after the completion of investigation, the challan was prepared and presented before the learned Trial Court.

3. 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.

4. The prosecution examined nine witnesses to prove its case. Informant Sanjay Kumar (PW1) and Rakesh Kumar

(PW2) sustained injuries in the accident. Dr Ashok Kaushal (PW3) examined the injured. Gurdial Singh (PW4), Sanjeev Kumar (PW5) and Rajneesh Kumar (PW6) witnessed the recoveries. Rumel Singh (PW7) took the photographs. Sanjeev Kumar (PW8) is the owner of the bus, who proved that the accused was driving the bus on the date of the incident. ASI Yashpal Singh (PW9) investigated the matter.

5. The accused, in his statement recorded under Section 313 of the Code of Criminal Procedure (CrPC), denied the prosecution's case in its entirety. He admitted that he was driving the bus bearing registration No. HP-54A-1677 on the date of the accident. He stated that the accident occurred because of the negligence of Sanjay Kumar, who had hit the motorcycle against a stationary bus. He admitted that the matter was reported to the police and the police had conducted the investigation. He stated that witnesses were demanding ₹25,000/- from him, but he was unable to pay the amount. Therefore, he was falsely implicated by the witnesses.

6. Learned Trial Court found that the accident had occurred on a blind curve when the motorcycle was going

downhill, and the bus was going uphill. Statements of Gurdial Singh (PW4), Sanjeev Kumar (PW5) and Rumel Singh (PW7) proved that the bus was being driven at a slow speed and was stopped by the accused after seeing the motorcycle. However, the motorcyclist hit the stationary bus. No considerable damage was caused to the motorcycle, and the version of the accused that the accident occurred because of the negligence of the motorcyclist could not be ruled out. When two versions are appearing on record, the version in favour of the accused has to be preferred. Hence, the learned Trial Court acquitted the accused.

7. Being aggrieved by the judgment passed by the learned Trial Court, the State has filed an appeal asserting that the learned Trial Court erred in acquitting the accused. Sanjay Kumar (PW1) and Rakesh Kumar (PW2) categorically stated that the accused drove the bus in a rash and negligent manner and hit the motorcycle, causing injuries to the occupants. The learned Trial Court relied upon the statements of Gurdial Singh (PW4), Sanjeev Kumar (PW5) and Sanjeev Kumar (PW8). However, these persons were not cited as eyewitnesses. Sanjeev Kumar was the conductor of the bus and would have supported the

accused, who was the driver of the bus. Therefore, it was prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

8. I have heard Mr Jitender Sharma, learned Additional Advocate General for the appellant/State and Ms Sheetal Kaul, learned vice counsel representing the respondent/accused.

9. Mr Jitender Sharma, learned Additional Advocate General for the appellant/State, submitted that the occupants of the motorcycle have categorically stated that the accident occurred because of the negligence of the accused. The learned Trial Court erred in relying upon the statements of the witnesses who were not cited as eyewitnesses, and the bus conductor would have supported the accused. Therefore, he prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

10. Ms Sheetal Kaul, learned vice counsel representing the respondent, submitted that the prosecution did not re-examine the witnesses and their testimonies cannot be discarded. The learned Trial Court had taken a reasonable view that could have been taken based on the evidence produced

before the learned Trial Court, and no interference is required with the reasonable view of the learned Trial Court while deciding an appeal against the acquittal. Hence, she prayed that the present appeal be dismissed.

11. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

12. 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 a technical rule; 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.”

13. Gurdial Singh (PW4) stated that the bus was going uphill and the motorcycle was going downhill. He admitted that there was a blind curve at the place of accident. The motorcyclist had lost control and hit the bus. There was sufficient space towards the side of the motorcycle.

14. Sanjeev Kumar (PW5) stated that he was sitting on the front seat of the bus. The bus was going uphill, and the motorcycle was going downhill. The bus was being driven at the speed of 10 to 12 kilometres per hour. The motorcycle was being driven at a high speed. The bus driver had negotiated the curve. The motorcyclist got frightened. The motorcycle would have suffered extensive damage had the bus been in motion.

15. Sanjeev Kumar (PW8) stated that the motorcycle hit the stationary bus. He was a conductor in the bus and was issuing the tickets. The motorcycle was being driven at a speed of around 50 to 60 km/hour. The bus driver stopped the bus after seeing the motorcycle, and the motorcycle hit the stationary bus. The motorcyclist had 5 to 6 feet of space towards his side, and he could have easily crossed the bus.

16. All these witnesses were not re-examined by the learned APP, and their testimonies had gone unrebutted. Therefore, the learned Trial Court had rightly accepted these testimonies. In similar circumstances, when a witness had supported the case of the defence, but was not re-examined by the prosecution to clarify his testimony, it was held in *Ramsewak v. State of M.P.*, (2004) 11 SCC 259: 2004 SCC OnLine SC 477 that the benefit of the discrepancy would go to the defence. It was observed at page 265:

“14.... Even assuming that there is some doubt as to the interpretation of this part of his evidence since the same is not clarified by the prosecution by way of re-examination, the benefit of doubt should go to the defence which has, in specific terms, taken a stand that the FIR came into being only after the dead body was recovered....”

17. It was held in *Javed Masood v. State of Rajasthan*, (2010) 3 SCC 538: (2010) 2 SCC (Cri) 1176: 2010 SCC OnLine SC 347 that the defence can take advantage of any statement made in the cross-examination. It was observed at page 543:

“20. In the present case, the prosecution never declared PWs 6, 18, 29 and 30 “hostile”. Their evidence did not support the prosecution. Instead, it supported the defence. There is nothing in law that precludes the defence from relying on their evidence.

21. This Court in *Mukhtiar Ahmed Ansari v. State (NCT of Delhi)* [(2005) 5 SCC 258: 2005 SCC (Cri) 1037] observed: (SCC pp. 270–71, paras 30–31)

“30. A similar question came up for consideration before this Court in *Raja Ram v. State of Rajasthan*[(2005) 5 SCC 272: 2005 SCC (Cri) 1050]. In that case, the evidence of the doctor who was examined as a prosecution witness showed that the deceased was being told by one K that she should implicate the accused or else she might have to face prosecution. The doctor was not declared ‘hostile’. The High Court, however, convicted the accused. This Court held that it was open to the defence to rely on the evidence of the doctor, and it was binding on the prosecution.

31. In the present case, evidence of PW 1 Ved Prakash Goel destroyed the genesis of the prosecution that he had given his Maruti car to the police, in which the police had gone to the Bahai Temple and apprehended the accused. When Goel did not support that case, the accused could rely on that evidence.”

The proposition of law stated in the said judgment is equally applicable to the facts in hand.”

18. Therefore, the learned Trial Court was justified in holding that two versions had appeared on the record, one that the bus had hit the motorcycle and second that the motorcycle had hit the stationary bus. It was laid down by the Hon'ble Supreme Court in *Ghurey Lal v. State of U.P.*, (2008) 10 SCC 450: 2008 SCC OnLine SC 1154 that when two versions are appearing on the record, the version in favour of the accused has to be preferred to the version which is in favour of the prosecution. It was observed at page 471:

58. In *K. Gopal Reddy v. State of A.P.* [(1979) 1 SCC 355: 1979 SCC (Cri) 305] the Court observed thus: (SCC p. 360, para 9)

“9. ... It stems out of the fundamental principle of our criminal jurisprudence that the accused is entitled to the benefit of any reasonable doubt. *If two reasonably probable and evenly balanced views of the evidence are possible, one must necessarily concede the existence of a reasonable doubt.* But, fanciful and remote possibilities must be left out of account. To entitle an accused person to the benefit of a doubt arising from the possibility of a duality of views, the possible view in favour of the accused must be as nearly reasonably probable as that against him. If the preponderance of probability is all one way, a bare possibility of another view will not entitle the accused to claim the benefit of any doubt. It is, therefore, essential that any view of the evidence in favour of the accused must be reasonable, even as any doubt, the benefit of which an accused person may claim, must be reasonable. ‘A reasonable doubt, it has been remarked, ‘does not

mean some light, airy, insubstantial doubt that may flit through the minds of any of us about almost anything at some time or other; it does not mean a doubt begotten by sympathy out of reluctance to convict; it means a real doubt, a doubt founded upon reasons.” [Salmond, J. in his charge to the jury in *R. v. Fantle* [1959 *Cri L Review* 584] .] (emphasis supplied)

63. In *Bhagwan Singh v. State of M.P.* [(2002) 4 SCC 85: 2002 SCC (Cri) 736] the Court repeated one of the fundamental principles of criminal jurisprudence 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. The Court observed as under: (SCC p. 89, para 7)

“7. ... The golden thread that runs through the web of 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. Such is not a jurisdiction limitation on the appellate court, but Judge-made guidelines for circumspection. The paramount consideration of the court is to ensure that miscarriage of justice is avoided.”

66. In *State of Karnataka v. K. Gopalakrishna* [(2005) 9 SCC 291: 2005 SCC (Cri) 1237], while dealing with an appeal against acquittal, the Court observed: (SCC p. 299, para 17)

“17. ... In such an appeal, the appellate court does not lightly disturb the findings of fact recorded by the court below. If, on the basis of the same evidence, two views are reasonably possible, and the view favouring the accused is accepted by the court below, that is sufficient for upholding the order of acquittal.

However, if the appellate court comes to the conclusion that the findings of the court below are wholly unreasonable or perverse and not based on the evidence on record, or suffer from serious illegality, including ignorance or misreading of evidence on record, the appellate court will be justified in setting aside such an order of acquittal.”

67. In *State of Goa v. Sanjay Thakran* [(2007) 3 SCC 755 : (2007) 2 SCC (Cri) 162] this Court relied on *State of Rajasthan v. Raja Ram* [(2003) 8 SCC 180: 2003 SCC (Cri) 1965] (SCC pp. 186–87, para 7) and observed as under: (*Sanjay Thakran case* [(2007) 3 SCC 755 : (2007) 2 SCC (Cri) 162], SCC pp. 767–68, para 15)

“15. ... ‘7. Generally, the order of acquittal shall not be interfered with because the presumption of innocence of the accused is further strengthened by an acquittal. The golden thread that runs through the web of 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. ... The principle to be followed by the appellate court considering the appeal against the judgment of acquittal is to interfere only when there are compelling and substantial reasons for doing so. If the impugned judgment is clearly unreasonable, it is a compelling reason for interference.”

The Court further held as follows: (SCC p. 768, para 16)

“16. ... it is apparent that while exercising the powers in appeal against the order of acquittal, the court of appeal would not ordinarily interfere with the order of acquittal unless the approach of the lower court is vitiated by some manifest illegality and the conclusion arrived at would not be arrived at by any reasonable person, and therefore, the decision is to be characterised as perverse. Merely because two views

are possible, the court of appeal would not take the view which would upset the judgment delivered by the court below.”

19. Therefore, the Learned Trial Court was right in holding that when two versions appear on the record, the version in favour of the accused has to be preferred to the version in favour of the prosecution because, in such a situation, the prosecution has not proved its case beyond reasonable doubt. Therefore, the learned Trial Court had taken a reasonable view while acquitting the accused, and this Court will not interfere with a reasonable view of the learned Trial Court, even if another view is possible while deciding an appeal against acquittal.

20. No other point was urged.

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

22. 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 bond 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.

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

(Rakesh Kainthla)
Judge

31st August, 2026
(Nikita)