IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 131 of 2013-A
Reserved on: 07.10.2025
Date of Decision: 03.11.2025.

State of H.P. ...Appellant

Versus

Sunil Bharti Rana ...Respondent

Coram
Hon'ble Mr Justice Rakesh Kainthla, Judge.
Whether approved for reporting?[1] ***No***

For the Appellant : Mr Ajit Sharma, Deputy Advocate General.

For the Respondent : Ms Sangeeta Vasudeva, Advocate.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 12.10.2012 passed by learned Judicial Magistrate First Class, Court No.1, Dehra, District Kangra (learned Trial Court) vide which the respondent (accused before learned Trial Court) was acquitted of the commission of an offence punishable under Section 61 (1) (a) of the Punjab Excise Act as applicable to State of H.P. (*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.

2025:HHC:36639

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 an offence punishable under Section 61 (1) (a) of the Punjab Excise Act as applicable to the State of H.P. and Section 181 of the Motor Vehicles Act (MV Act). It was asserted that SI/SHO Som Nath (PW5), ASI Chain Singh, ASI Sanjay Kumar, Constable Ashok Kumar, HHG Pradeep Kumar, HHG Dilbag and HHG Lekh Raj were on nakabandi in an official vehicle bearing registration No. HP39A-0459 on 25.09.2008 at 3:00 am. Two vehicles came at a high speed from Dehra at about 6:45 am. The police signalled the drivers to stop, however, the drivers sped away in the vehicles towards Nagrota Surian. SI/SHO Som Nath (PW5) and other police officials followed the vehicles. The Maruti car was stopped at Chandua at about 8:30 am. ASI Chain Singh and other police officials remained on the spot to check the Maruti car. The other vehicle could not be intercepted. SI/SHO Som Nath (PW5), Constable Ashok Kumar, HHG Dilbag Singh and HHG Lekh Raj followed the vehicle and informed the In-charge of Police Post Ranital to intercept it. ASI Manohar Lal (PW2) intercepted the other vehicle bearing registration HP 58A-6789 at Behri at about

2025:HHC:36639

9:45 am. The driver identified himself as Sunil Bharti Rana. Cardboard boxes were loaded in the vehicle. The police stopped Jagdish Chand (PW1) and associated him as a witness. The police also called Jitender Kumar (PW3) photographer, to the spot. The cardboard boxes were checked, and they were found to be 55 in number. Each box contained 12 bottles of country liquor. Photographs (Ext.PX and Ext. PY) were taken. One bottle each was taken out as a sample from 7 boxes. Each bottle was sealed with a seal 'S'. Seal impression (Ext.PW5/A) was taken on a separate piece of cloth. The remaining 653 bottles, vehicle, registration certificate and insurance were seized vide memo (Ext.PW1/A). Rukka (Ext.PW5/B) was prepared and was sent to the Police Station, where FIR (Ext.PW5/C) was registered. Inspector Som Nath (PW5) investigated the matter. He prepared the site plan (Ext. PW5/E) and recorded the statements of proseuction witnesses as per their version. He deposited the case property with MHC Sultan (PW4), who deposited it in Maalkhana. He sent the sample bottles to CTL Kandaghat for analysis vide R.C. (Ext.PW4/A) through HHC Rajinder Kumar (PW6). HHC Rajinder Kumar (PW6) deposited the bottles in the CTL Kandaghat and handed over the receipt to MHC on his

2025:HHC:36639

return. The result of the analysis (Ext.PW5/F) was issued in which it was mentioned that the sample contained 50%, 49.8%, 49.8%, 41%, 50%, 50% and 50% alcohol. After the completion of the 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, he was charged with the commission of offences punishable under Section 61 (1) (a) of the Punjab Excise Act, to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined 7 witnesses to prove its case. Jagdish Singh (PW1) is an independent person who did not support the prosecution's case. Inspector Manohar Lal (PW2) is the witness to the recovery. Jitender Kumar (PW3) took the photographs. MHC Sultan (PW4) was working as MHC with whom the case property was deposited. Inspector Som Nath (PW5) investigated the matter. HHC Rajinder Kumar (PW6) carried the bottles to CTL Kandaghat. ASI Kashmir Singh (PW7) signed the FIR and deposited the case property in the malkhana.

2025:HHC:36639

5. The accused, in his statement recorded under Section 313 of Cr.P.C., denied the prosecution's case in its entirety. He claimed that the witnesses deposed against him because they are police officials. The police falsely implicated him in the present case. He did not lead any evidence in defence.

6. Learned Trial Court held that Jitender Kumar (PW3) photographer, did not state that bottles of liquor were found inside the vehicle. Manohar Lal (PW2) admitted that there is a bus stand at Behri Chowk where people are normally available. However, no independent witnesses were associated. There was a discrepancy in the site plan and the photographs, which made the prosecution's case doubtful. Jagdish Singh (PW1) did not support the prosecution's case, and this would put the Court on guard. There were various contradictions in the statements of the official witnesses, which made the prosecution's case highly suspect. Therefore, the accused was acquitted.

7. Being aggrieved by the judgment passed by the learned Trial Court, the State has filed the present appeal asserting that the learned Trial Court failed to properly appreciate the material on record. Inspector Manohar Lal (PW2)

2025:HHC:36639

specifically stated that he had noticed a Bolero vehicle bearing registration HP 58A-6789 coming from Dehra at a high speed. He followed and searched it. 55 cartons of Country liquor bearing the mark 'Lal Kila' were recovered. His statement was corroborated by Inspector Som Nath (PW5). The learned Trial Court had not assigned any reason to discard the statements of official witnesses. The report of the analysis clearly proved that the bottles had country liquor in them. The prosecution's case was proved beyond a reasonable doubt, and the learned Trial Court erred in acquitting the accused. 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 Ajit Sharma, learned Deputy Advocate General for the appellant/State and Ms Sangeeta Vasudeva, learned counsel for the respondent/accused.

9. Mr Ajit Sharma, learned Deputy Advocate General for the appellant/State, submitted that the prosecution's case was proved beyond a reasonable doubt by the statements of the police officials. Learned Trial Court erred in discarding the prosecution's case without any cogent reasons. The mere fact

2025:HHC:36639

that independent witness Jagdish had not supported the prosecution's case was not sufficient to discard it, especially when he admitted his signature on the seizure memo. The minor contradictions were blown out of proportion to record the acquittal. Therefore, he prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

10. Ms Sangeeta Vasudeva, learned counsel for the respondent/accused, supported the judgment passed by the learned Trial Court and submitted that no interference is required with it.

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 ***Surendra Singh v. State of Uttarakhand, 2025 SCC OnLine SC 176: (2025) 5 SCC 433*** that the Court can interfere with a judgment of acquittal if it is patently perverse, is based on misreading/omission to consider the material evidence and

2025:HHC:36639

reached at a conclusion which no reasonable person could have reached. It was observed at page 440:

> "**23.** Recently, in the case of ***Babu Sahebagouda Rudragoudar v. State of Karnataka 2024 SCC OnLine SC 4035***, a Bench of this Court to which one of us was a Member (B.R. Gavai, J.) had an occasion to consider the legal position with regard to the scope of interference in an appeal against acquittal. It was observed thus:
>
> "**38.** First of all, we would like to reiterate the principles laid down by this Court governing the scope of interference by the High Court in an appeal filed by the State for challenging the acquittal of the accused recorded by the trial court.
>
> 39. This Court in ***Rajesh Prasad v. State of Bihar [Rajesh Prasad v. State of Bihar, (2022) 3 SCC 471: (2022) 2 SCC (Cri) 31]*** encapsulated the legal position covering the field after considering various earlier judgments and held as below: (SCC pp. 482-83, para 29)
>
> "*29.* After referring to a catena of judgments, this Court culled out the following general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal in the following words: (***Chandrappa case [Chandrappa v. State of Karnataka, (2007) 4 SCC 415: (2007) 2 SCC (Cri) 325***], SCC p. 432, para 42)
>
> '*42.* From the above decisions, in our considered view, the following general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal emerge:
>
> (1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.
>
> (2) The Criminal Procedure Code, 1973, puts no limitation, restriction or condition on the

exercise of such power and an appellate court, on the evidence before it, may reach its own conclusion, both on questions of fact and law.

(3) Various expressions, such as "substantial and compelling reasons", "good and sufficient grounds", "very strong circumstances", "distorted conclusions", "glaring mistakes", etc., are not intended to curtail the extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of "flourishes of language" to emphasise the reluctance of an appellate court to interfere with an acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in the case of acquittal, there is a double presumption in favour of the accused. *Firstly*, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. *Secondly*, the accused, having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court."

40. Further, in ***H.D. Sundara v. State of Karnataka [H.D. Sundara v. State of Karnataka, (2023) 9 SCC 581: (2023) 3 SCC (Cri) 748],*** this Court summarised the principles governing the exercise of appellate jurisdiction while

dealing with an appeal against acquittal under Section 378CrPC as follows: (SCC p. 584, para 8)

> *8. ... 8.1.* The acquittal of the accused further strengthens the presumption of innocence.
>
> *8.2.* The appellate court, while hearing an appeal against acquittal, is entitled to reappreciate the oral and documentary evidence.
>
> *8.3.* The appellate court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record.
>
> *8.4.* If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and
>
> *8.5.* The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible."

41. Thus, it is beyond the pale of doubt that the scope of interference by an appellate court for reversing the judgment of acquittal recorded by the trial court in favour of the accused has to be exercised within the four corners of the following principles:

41.1. That the judgment of acquittal suffers from patent perversity.

41.2. That the same is based on a misreading/omission to consider material evidence on record; and

41.3. That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record."

24. It could thus be seen that it is a settled legal position that the interference with the finding of acquittal recorded

> by the learned trial judge would be warranted by the High Court only if the judgment of acquittal suffers from patent perversity; that the same is based on a misreading/omission to consider material evidence on record; and that no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record."

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

14. SI Manohar Lal (PW2) stated that SHO Police Station Haripur informed that two vehicles had fled away from the naka, which included one vehicle bearing registration No. HP58A-6789. He was directed to intercept the vehicle. He and Constable Ganesh went to the chowk on the motorcycle and stopped the vehicle. SHO and police officials also reached the spot.

15. SI Som Nath (PW5) stated that he and other police officials were on nakabandi duty. Two vehicles, a Maruti car and a Bolero, came from Dehra at 6:45 a.m. He signalled the drivers to stop. However, the drivers sped away towards Nagrota Surian. He informed the In-charge Police Post Ranital to intercept the vehicles. The Maruti car was stopped at Chandua. ASI Chain Singh was directed to guard the vehicle. He followed Bolero, which was intercepted by ASI Manohar Lal, in charge of Police Post Ranital. It was bearing registration No. HP-58A-6789. The

driver identified himself as Sunil Bharti Rana. The photographer was called to the spot, and Jagdish was associated with the investigation. He stated in his cross-examination that the police had followed the vehicles in a Maruti car and a motorcycle. The Maruti car was stopped when the first vehicle was intercepted. He went to the spot on a motorcycle.

16. Thus, this witness has specifically stated that he had followed the Mahindra Bolero on a motorcycle. Inspector Manohar Lal stated that Constable Ganesh, SHO Som Nath, and Constable Ashok were present on the spot. The driver of the vehicle was also present on the spot.

17. The rukka (Ext.PW5/B) reads that Constable Ashok Kumar, HHC Dilbag Singh and HHC Lekh Raj had chased the Bolero. SI Som Nath (PW5), Constable Ashok Kumar, HHC Dilbaag and HHG Lekh Raj could not have followed the Bolero in a motorcycle, since a motorcycle is meant for two people. This made the prosecution's case highly suspect.

18. SI Som Nath (PW5) stated that he had called the photographer on the spot. Jitender Kumar (PW3) took the photographs. He stated in his cross-examination that nobody

2025:HHC:36639

told him about the contents of the boxes. He did not know the contents of the boxes.

19. Learned Trial Court had rightly held that the testimony of this witness also made the prosecution's case suspect. As per the prosecution, the boxes were opened, samples were taken, and they were sealed on the spot. It is nobody's case that Jitender Kumar had left the spot. The fact that he has not deposed about the checking of the contents of the cardboard boxes and the recovery of the bottles will make the prosecution's case doubtful that the proceedings were conducted at the spot. Further, no reason was assigned as to why the photographs of the proceedings were not taken. When the photographer was present on the spot and had photographed the vehicle and the cardboard boxes lying in it, nothing prevented him from taking the photographs of the proceedings. This aspect also casts a doubt regarding the prosecution's case.

20. Jagdish Singh (PW1) did not support the prosecution's case. He stated that the police asked him to put the signatures, and he put the signatures. He was permitted to be cross-examined. He denied that the police intercepted a Bolero bearing

registration No. HP58A-6789. He denied that the Bolero was searched, and 554 boxes of country liquor were recovered. He denied that samples were taken, which were sealed on the spot. He denied the previous statement recorded by the police.

21. This witness has not supported the prosecution's case, and no advantage can be derived from his testimony.

22. No other independent witness or police official was examined. Manohar Lal (PW2) admitted in his cross-examination that people are present at Behri Chowk. There is a bus stop, and people board the buses from the spot. Learned Trial Court rightly held that non-association of the independent witnesses in such a situation would cast a doubt regarding the prosecution's case.

23. Thus, the learned Trial Court had taken a reasonable view of the matter while acquitting the accused, and this Court will not interfere with the reasonable view of the learned Trial Court, even if another view is possible.

24. No other point was urged.

2025:HHC:36639

25. In view of the above, the judgment passed by the learned Trial Court is sustainable. Hence, the present appeal fails, and the same is dismissed.

26. Record of learned Trial Court be sent back forthwith along with a copy of the judgment. Pending applications, if any, also stand disposed of.

(Rakesh Kainthla)
Judge

3rd November, 2025
(Nikita)