IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 454 of 2012
Reserved on: 30.10.2026
Date of Decision: 23.11.2026.

State of H.P. ...Appellant

Versus

Kuldeep Singh ...Respondent

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

For the Petitioner : Mr Tarun Pathak, Deputy Advocate General.

For the Respondent : Mr Arun Kaushal, Advocate.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 30.04.2012 passed by learned Additional Sessions Judge, Fast Track Court, Una, District Una (learned Appellate Court) vide which the judgment of conviction and order of sentence dated 21.12.2011 passed by learned Chief Judicial Magistrate Una, District Una, H.P. (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.

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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 the informant, Tilak Raj (PW1), was returning to his home on 14th April 2002 on his motorcycle bearing registration number PB-12D-0998. A white Tata Sumo bearing registration number HR-26E-6907 hit the informant's motorcycle near the house of Jodha Singh Saini (PW2) on the wrong side. Tata Sumo hit a tree after the accident. Accused Kuldeep Singh was driving the Tata Sumo at the time of the accident, and the accident occurred because of his negligence. The informant sustained injuries in the accident and was taken to the hospital. An intimation was given to the police, and the police reached the hospital. The informant's statement (Ex. PW1/A) was recorded and sent to the police station, where FIR (Ex. PW7/D) was registered. Madan Lal (PW7) investigated the matter. He went to the spot and prepared the site plan (Ex. PW7/A). Balwinder Singh (PW6) took photographs of the spot (Ex. PW6/A to Ex. PW6/D). Madan Lal (PW7) seized the motorcycle and Tata Sumo along with the documents vide memos (Ex. PW7/B and Ex.

PW2/A). Doctor Umesh Gautam (PW5) examined the injured and found that he had sustained multiple injuries. Doctor Umesh advised an X-ray and issued the MLC (Ex. PW5/A), stating that the injured had sustained simple and grievous injuries that could have been caused in a motor vehicle accident. HHC Saroop Lal examined the vehicles and found that they had no defect in them that could have led to the accident. He issued the reports (Ex. PW3/A and Ex.PW3/B). 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.

3. 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.

4. The prosecution examined seven witnesses to prove its case. The informant, Tilak Raj (PW1), is the victim. Jodha Singh (PW2) is an eyewitness. HHC Saroop Lal (PW3) mechanically examined the vehicles. Hansraj (PW4) did not

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support the prosecution version. Doctor Umesh Gautam (PW5) examined the injured. Balwinder Singh (PW6) took the photographs. Madan Lal (PW7) investigated the matter.

5. 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 he was innocent and a false case was made against him. He did not produce any evidence in his defence.

6. Learned Trial Court held that the testimonies of the informant Tilak Raj (PW1) and Jodha Singh (PW2) corroborated each other. It was duly proved on record that the accused was driving the Tata Sumo at high speed towards the wrong side of the road, which led to the accident. Medical evidence proved that the informant had sustained simple and grievous injuries. The mechanical report proved that there was no mechanical defect in the vehicle that could have led to the accident. Hence, the learned trial Court convicted and sentenced the accused as under:

Conviction	Sentence
Section 279 of IPC	To undergo simple imprisonment for three months, pay a fine of ₹500/- and, in default of payment

	of fine, to undergo rigorous imprisonment for 15 days.
Section 337 of IPC	To undergo simple imprisonment for three months, pay a fine of ₹500/- and, in default of payment of fine, to undergo rigorous imprisonment for 15 days.
Section 338 of IPC	To undergo simple imprisonment for six months, pay a fine of ₹1,000/- and, in default of payment of fine, to undergo simple imprisonment for 30 days.
All the substantive sentences of imprisonment were ordered to run concurrently.	

7. Being aggrieved by the judgment and order passed by the learned trial Court, the accused filed an appeal which was decided by the learned Additional Sessions Judge, Fast Track Court, Una District, Una (learned appellate Court). The learned appellate Court held that the prosecution's version that the accused was driving a Tata Sumo on the wrong side of the road was not proved on record. The testimonies of the informant and Jodha Singh contradicted each other on material aspects. The informant was entering the main road from a link road, and he should have given way to the traffic moving on the main road. The accused took the Tata Sumo towards the right side of the

road to avoid the accident. The learned trial Court failed to notice this aspect. Hence, the learned Appellate Court set aside the judgment and the order passed by the learned Trial Court and acquitted the accused.

8. Being aggrieved by the judgment passed by the learned Appellate Court, the State has filed the present appeal asserting that the testimonies of the informant and Jodha Singh (PW2) corroborated each other. They have specifically stated that the accident had occurred because of the high speed of the Tata Sumo and the negligence of the accused. The learned Appellate Court erred in relying upon the testimony of the hostile witness. Therefore, it was prayed that the present appeal be allowed and the judgment passed by the learned Appellate Court be set aside.

9. I have heard Mr Tarun Pathak, learned Deputy Advocate General for the appellant/State and Mr Arun Kaushal, learned counsel for the respondent/accused.

10. Mr Tarun Pathak, learned Deputy Advocate General for the appellant/State, submitted that the informant's statement was duly corroborated by the testimony of Jodha Singh (PW2) and the medical evidence. The Tata Sumo had left the road

and hit the tree, which showed the negligence of the accused. The learned trial Court had rightly convicted and sentenced the accused, and the learned appellate Court erred in reversing the well-reasoned judgment passed by the learned trial Court. Therefore, he prayed that the present appeal be allowed and the judgment passed by the learned Appellate Court be set aside.

11. Mr Arun Kaushal, learned counsel for the respondent/accused, submitted that the informant was entering the main road from a link road and he should have given way to the traffic moving on the main road. The accused drove the Tata Sumo towards the right side to avoid the accident and there was no negligence of the accused. 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, even if another view is possible. Therefore, he prayed that the present appeal be dismissed.

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

13. 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:**
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> **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.
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> **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:
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> > *"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*

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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

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> with unless it is totally perverse or wholly unsustainable."
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> **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.
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> **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 re-appreciate 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.
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> **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.
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> **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.

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

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15. The site plan (Ex. PW7/A) shows that the informant drove the motorcycle from a link road to the main road. The Rules of the Road Regulations, 1989 (*for short, 'Rules')* deal with the movement of the vehicle on the road. Rule 8 of the Rules *ibid* provides that the driver of a motor vehicle shall slow down while approaching a road intersection, a road junction, a pedestrian crossing or a road corner, and shall not enter any such intersection, junction or crossing until he has become aware that he may do so without endangering the safety of persons. Rule 9 provides that the driver of a motor vehicle shall, on entering a road intersection, give way to the vehicles proceeding along that road. The combined effect of both these rules is that a person approaching the road intersection is not supposed to enter it unless he is sure that the safety of any person would not be endangered by his entry, and when he has entered the road intersection, he will give way to the traffic proceeding on the road. The informant admitted in his cross-examination that he had seen the Tata Sumo from a distance of 150 – 200 feet; thus, he was not supposed to enter the main road as the Tata Sumo was moving on it. He failed to do so, which led to the accident, and the learned Appellate Court had rightly held that the informant

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had failed to adhere to the Rules of the Road Regulations, which led to the accident.

16. The informant and Jodha Singh (PW2) stated that the accident had occurred because of the high speed of the Tata Sumo and negligence of the accused. They have not mentioned the approximate speed of the Tata Sumo or the precise negligence of the accused. It was laid down by the Hon'ble Supreme Court in ***Mohanta Lal vs. State of West Bengal, 1968 ACJ 124,*** that the use of the term ‘high speed’ by a witness amounts to nothing unless it is elicited from the witness what is understood by the term 'high speed'. It was observed:

> “Further, no attempt was made to find out what this witness understood by high speed. To one man, the speed of even 10 or 20 miles per hour may appear to be high, while to another, even a speed of 25 or 30 miles per hour may appear to be a reasonable speed. On the evidence in this case, therefore, it could not be held that the appellant was driving the bus at a speed which would justify holding that he was driving the bus rashly and negligently. The evidence of the two conductors indicates that he tried to stop the bus by applying the brakes; yet, Gopinath Dey was struck by the bus, though not from the front side of the bus, as he did not fall in front of the bus but fell sideways near the corner of the two roads. It is quite possible that he carelessly tried to run across the road, dashed into the bus and was thrown back by the moving bus, with the result that he received the injuries that resulted in his death.”

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17. This position was reiterated in ***State of Karnataka vs. Satish 1998 (8) SCC 493,*** *and* it was held:

> "Merely because the truck was being driven at a "high speed" does not bespeak of either "negligence" or "rashness" by itself. None of the witnesses examined by the prosecution could give any indication, even approximately, as to what they meant by "high speed". "High speed" is a relative term. It was for the prosecution to bring on record material to establish what it meant by "high speed" in the facts and circumstances of the case. In a criminal trial, the burden of providing everything essential to the establishment of the charge against an accused always rests on the prosecution, and there is a presumption of innocence in favour of the accused until the contrary is proved. Criminality is not to be presumed, subject, of course, to some statutory exceptions. There is no such statutory exception pleaded in the present case. In the absence of any material on the record, no presumption of "rashness" or "negligence" could be drawn by invoking the maxim "res ipsa loquitur."

18. This Court also held in ***State of H.P. Vs. Madan Lal, 2003, Latest H.L.J. (2) 925,*** that speed alone is not a criterion for judging rashness or negligence. It was observed: -

> "It may be pointed out that speed alone is not a criterion to decide rashness or negligence on the part of a driver. The deciding factor, however, is the situation in which the accident occurs."

19. This position was reiterated in ***State of H.P. Vs. Parmodh Singh 2008 Latest HLJ (2) 1360*** wherein it was held: -

> "Thus, negligent or rash driving of the vehicle has to be proved by the prosecution during the trial, which cannot

> be automatically presumed even on the basis of the doctrine of res ipsa loquitur. Mere driving of a vehicle at a high speed or slow speed does not lead to an inference that negligent or rash driving had caused the accident resulting in injuries to the complainant. In fact, speed is no criterion to establish the fact of rash and negligent driving of a vehicle. It is only a rash and negligent act as its ingredients, which the prosecution has failed to prove in the instant case."

20. Therefore, the accused cannot be held liable because the witnesses had used the term high speed.

21. The statements of the witnesses that the accused was negligent are also not sufficient. A witness can only depose about the fact which occurred in his presence, and he is not permitted to draw inferences from the facts. The inferences have to be drawn by the Jury or the Judge when he is sitting without a Jury. It was laid down by Goddard LJ in ***Hollington v. Hawthorn 1943 KB 507*** that a witness cannot depose about negligence. It was observed at 595:

> "It frequently happens that a bystander has a full and complete view of an accident. It is beyond question that while he may inform the court of everything he saw, he may not express any opinion on whether either or both of the parties were negligent. The reason commonly assigned is that this is the precise question the court has to decide, but in truth, it is because his opinion is not relevant. Any fact that he can prove is relevant, but his opinion is not."

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22. Similar is the judgment in ***State of H.P. vs. Niti Raj 2009 Cr.L.J. 1922 (HP)***, where it was held:

> "It is not necessary for a witness to say that the driver of an offending vehicle was driving the vehicle rashly. The issue of whether the vehicle was being driven in a rash and negligent manner is a conclusion to be drawn based on evidence led before the Court."

23. Therefore, no advantage can be derived from the statements that the accident had occurred because of the negligence of the accused.

24. No other evidence was led to show the negligence of the accused. Therefore, the learned Trial Court had taken a reasonable view while holding that the prosecution version was not proved beyond reasonable doubt, and this Court will not interfere with the reasonable view of the Court acquitting the accused, even if another view is possible.

25. No other point was urged.

26. In view of the above, the present appeal fails and is dismissed. Pending applications, if any, also stand disposed of.

27. 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 is directed to furnish bail bond in

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the sum of ₹50,000/- with one surety of the like amount to the satisfaction of the learned Registrar (Judicial) of this Court/learned Trial Court, which shall be effective for six months with a stipulation that in the event of a Special Leave Petition being filed against this judgment or on grant of the leave, the respondent on receipt of notice thereof shall appear before the Hon'ble Supreme Court.

28. A copy of the judgment, along with the record of the learned Courts below, be sent back forthwith.

(Rakesh Kainthla)
Judge

23rd November, 2026
(Chander)