IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No. 143 of 2014
Reserved on 02.11.2026
Date of Decision:20.11.2026

Sharwan Negi ...Petitioner

Versus

State of Himachal Pradesh ...Respondent

Coram
Hon'ble Mr Justice Chirag Bhanu Singh, Judge.
Whether approved for reporting?[1]

For the Petitioner	:	Ms. Reeta Goswami, Senior Advocate with Ms. Komal Chaudhary, Advocate.
For the Respondent	:	Mr. Lokender Kutlehria, Additional Advocate General.

Chirag Bhanu Singh, Judge

By way of the present revision petition filed under Sections 397 and 401 of the Criminal Procedure Code, the petitioner has assailed the judgment dated 29.03.2014, passed by the learned Sessions Judge, Kinnaur Sessions Division at Rampur Bushehar, District Shimla, H.P., whereby the conviction and sentence imposed by the learned Sub Divisional Judicial Magistrate, Rampur Bushehar, District Shimla, H.P. has been

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

upheld for the commission of offences punishable under Sections 279 and 304-A of Indian Penal Code (hereinafter referred to as IPC) and Section 181 of the Motor Vehicles Act (in short M.V Act), whereby the learned Trial Court while convicting the petitioner has sentenced him to undergo simple imprisonment for a period of six months and to pay fine of Rs. 1000/- under Section 279 of IPC and in default thereof to further undergo one month simple imprisonment and has been further sentenced to undergo simple imprisonment for a period of two years and to pay a fine of Rs. 5000/- under Section 304-A of IPC and in default thereof to further suffer simple imprisonment for a period of six months. The petitioner also stands convicted and sentenced to undergo simple imprisonment for a period of three months and to pay a fine of Rs. 500/- under Section 181 of M.V. Act and in default thereof to undergo simple imprisonment for 15 days. All the sentences were ordered to run concurrently.

2. The genesis giving rise to the present revision petition may be briefly summarized thus; on the fateful day i.e 02.06.2006 at about 7:05 A.M when the complainant Uttam Dassi was on her way to her house, a motor cycle bearing registration No. HP-26-0416 had appeared on the spot. The

motorcycle was being driven by the petitioner/accused at a very high speed. The motorcycle is stated to have collided with the complainant, who sustained multiple grievous injuries on her body. The accident was attributed to the rash and negligent driving of the petitioner/accused Sharwan Negi.

3. On the basis of the statement of Uttam Dassi recorded under Section 154 Cr.P.C. vide (Ext. PW2/A), FIR Ext. (PW6/A) came to be registered. Investigation had ensued. Unfortunately, the complainant, who had been rushed to the SJVNL Hospital, Jhakri and further referred to Shimla had scummed to her injuries on the way to Shimla.

4. The prosecution in order bring home the guilt of the accused had examined as many as nine witnesses. The accused in his statement recorded under Section 313 Cr.P.C. denied the prosecution version in toto and had claimed himself to be innocent.

5. The learned Trial Court after due deliberations had recorded the aforesaid conviction and sentence. The accused had been unsuccessful even in the appeal filed before the learned

Sessions Judge, Rampur Bushehar at Kinnaur which also came to be dismissed vide the impugned judgment dated 29.03.2014.

6. Feeling aggrieved and dissatisfied, the accused has approached this Court by way of the present proceedings, praying for his acquittal after setting aside the judgment of conviction and sentence passed by both the learned Courts below.

7. I have heard Ms. Reeta Goswami, Senior Counsel assisted by Ms. Komal Chaudhary, learned counsel for the petitioner and Mr. Lokender Kutlehria, Additional Advocate General, for the respondent-State and gone through the record carefully.

8. Learned counsel for the petitioner/accused would contend that there was no eye witnesses to the accident. The so called eye witness, namely Sanjeev Kumar (PW-2) admittedly had not witnessed the occurrence and so also PW-3 Jeeva Nand, who also happened to be the son of the deceased. The purported statement made by the deceased Uttam Dassi vide Ext. PW2/A is also shrouded in doubt, as there is nothing on record to show that she was not in a fit state of mind to make any statement.

Her having named the accused in the said statement also doubtful. The prosecution has failed to prove the rash and negligent conduct of the accused and speed alone could not be the sole ground to hold that the accused was rash and negligent while driving the motorcycle.

9. The learned counsel for the petitioner has also placed reliance upon the judgment of our own Hon'ble High Court titled as ***Sada Ram Vs. State of Himachal Pradesh, 1997 (2) SLC 478*** to contend that there was no evidence muchless legal evidence which could be translated against the accused so as to hold him guilty. Reliance was also placed on the judgment titled as ***Sanjeev Kumar Vs. State of Himachal Pradesh 2013 (2) SLC 775, State of Himachal Pradesh Vs. Sandeep Sharma, 2019 (3) Him.LR 1859*** to further contend that simply because the speed was more than the prescribed limit, it could not automatically be said that the act was rash and negligent.

10. Reliance was further placed on the judgment titled as ***Surender Kumar Vs. State of Himachal Pradesh, 2022 (1) Him. LR 478*** to contend that the evidence of the eye witnesses requires to be careful assessment and that there must by a string that

should join the evidence of the all the witnesses, satisfying the test of consistency in the evidence of all the witnesses examined.

11. Per contra, Mr. Lokender Kutleria, learned Additional Advocate General has supported the judgments passed by the learned Courts below. He would contend that there was sufficient evidence to hold beyond reasonable doubt that the accident had occurred due to the rash and negligent driving of the accused.

12. Having considered the rival contentions so made and after re-evaluating the evidence brought on record, it does transpire that PW-2 Sanjeev Kumar, the purported eye witness admittedly had not witnessed the occurrence. At about 7-7:15 A.M., he had found the motorcycle and the deceased lying on the spot. On reaching the spot, he had found the lady to be his neighbour. He had called her son. He had taken the injured to the hospital, from where she had been referred to Shimla. Further the Investigating Agency has taken the photographs and measured the road before him. He has admitted in the cross-examination that he had not seen the occurrence himself. He has though admitted that accused was also present at the

spot. He has denied that the accident had taken place because the injured was crossing the road from the wrong side.

13. Likewise, PW-3 Jeeva Nand, son of deceased has also categorically stated that he had been informed about the accident by PW-2 at about 7:15 A.M. He had immediately rushed to the spot and found both the motorcycle and his mother lying on the road. The accused was also present at the spot. The injured had been rushed to the Project Hospital, Jhakri from where she had referred further to Shimla. Since the injured was unconscious he had taken her to New Shri Ram Hospital, New Shimla, where the deceased had been declared brought dead. Her postmortem had thereafter been got conducted at IGMC, Shimla.

14. In cross-examination PW-3 has further admitted that his mother was not in a position to make any statement. It would be worthwhile to mention that PW-2 Sanjeev Kumar had reached the spot prior to Jeeva Nand (PW-3) and even he had accompanied the victim to the hospital. Even PW-2 Sanjeev Kumar has admitted in his cross-examination that the victim was crying in pain and as such did not disclose anything about

the accident. If the victim did not disclose anything about the accident to either PW-2 or PW-3 it is indeed difficult to infer that how the statement of the victim had come to be recorded vide Ext. PW2/A, and that too specifically naming the accused. Admittedly, there is nothing on record to show that any Medical Officer had verified that the victim was in a fit state of mind to make a statement before the police. To this limited extent, learned First Appellate Court has also clearly held that it would be difficult and unsafe to rely upon the statement of deceased Uttam Dassi vide Ext. PW2/A.

15. Even otherwise, there is no evidence on record to remotely show as to how the name of the accused came to be recorded in the statement of the victim (Ext. PW2/A). The Investigating Officer (PW-7) has merely stated that he had proceeded to the hospital and recorded the statement of the victim under Section 154 of Cr.P.C. Neither PW-2 nor PW-3 have in essence corroborated the version of the Investigating Officer. There is nothing on record to remotely suggest that Doctor had opined that the victim was fit to make the statement to the police at the relevant time.

16. Learned First Appellate Court thus was much swayed by the fact that the accused was driving the motorcycle very fast and he could not visualize the lady walking on the road.

17. However, re-appreciating the oral evidence adduced on record and the perusal of the spot map Ext. (PW7/B) shows that the motorcyclist was driving on his own left hand side. The victim on the contrary was walking on her right hand side. Invariably she should have been on the left side of the road. The site plan (Ext. PW7/B) further shows that there was 19 feet metalled road towards the right of the motorcyclist and 13 feet kachha path over and above the 19 feet metalled road. The motorcyclist thus was on his extreme left. As per the site plan, even to the left hand side of the metalled road, there was 5 feet of space. It also transpires from the site plan that the motorcyclist had applied his brakes and tried to stop the motorcycle, but by the time, he had apparently hit the victim.

18. It is by now fairly well settled that driving at a high speed per se may not be sufficient to hold that the act was rash and negligent. The prosecution thus had to prove that apart from the motorcycle having been driven in a very high speed,

the driver had failed to maintain care and caution expected from the accused while driving the vehicle. In this behalf a support can be drawn by the judgment of this Court in case titled as ***State of Himachal Pradesh Vs. Sandeep Sharma***, referred hereinabove (Supra) (2003 Him.LR, 1859).

19. Conjoint reading of the ocular version and site plan (Ext. PW7/B) does not clearly point out that the accident had taken place because of the sole rash and negligent act of the accused. The said factum is further confounded by the purported statement of the victim recorded under Section 154 of Cr.P.C. (Ext. PW2/A), wherein the victim is stated to have got recorded that later on she came to know that the name of the driver of the motorcycle was Sharwan Negi. Admittedly both PW-2 and PW-3 have neither disclosed the name of the victim nor she knew the accused. It has also not surfaced in the evidence that victim had disclosed anything relating to the accident, neither PW-2 or PW-3.

20. By now it is trite that in a criminal trial, the evidence of the eye witnesses requires a careful assessment and must be evaluated for its credibility. There must be consistency between

the version of the witnesses. The string that should join the evidence of all the witnesses should also satisfy the test of consistency amongst all the witnesses. The version of both PW-2 and PW-3 cannot be said to be creditworthy, as admittedly they had not witnessed the occurrence. The statement of the victim itself is further shrouded in doubt. The ocular version of the witnesses even if read collectively does not inspire confidence. More particularly when read in conjunction with the statement of the victim recorded under Section 154 Cr.P.C. (Ext. PW2/A) and the site plan (Ext. PW7/B), the benefit of doubt thus has to go to the accused.

21. For all the reasons discussed hereinabove, it can thus safely be said that the prosecution had failed to prove its case beyond all reasonable doubt. It indeed failed to prove that the accident took place merely because of the rash and negligent driving of the accused alone.

22. As a sequel, the present petition is allowed. Consequently the judgments and order passed by both the learned Courts below are quashed and set-aside. The accused is

acquitted of the charges, so framed against him. Bail bonds of the accused shall stands discharged.

23. The record of the learned Trial Court, along with a copy of this judgment, be sent back to it forthwith.

(Chirag Bhanu Singh)
Judge

20th November, 2026
(Anita)