IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No. 142 of 2014
Reserved on: 31.10.2026
Date of Decision: 25.11.2026.

Bunty Kumar ...Petitioner

Versus

State of H.P. ...Respondent

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

For the Petitioner : Mr Atharv Sharma, Advocate.
For Respondent/State : Mr Ajit Sharma, Deputy Advocate General.

Rakesh Kainthla, Judge

The present revision is directed against the judgment dated 15.03.2014 passed by learned Additional Sessions Judge-III, Kangra at Dharamshala, Camp at Palampur, District Kangra (learned Appellate Court) vide which the judgment of conviction and order of sentence dated 29.11.2012 passed by learned Judicial Magistrate First Class, Court No.2, Palampur, District Kangra (learned Trial Court) were upheld. *(The parties shall hereinafter be*

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

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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 revision 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) and Section 187 of the Motor Vehicle Act (MV Act). It was asserted that a scooter bearing registration No. HP-37A-4750 was going towards Bhawarna on 12.06.2009. A Maruti van bearing registration No. HP-37B-0290 came from the opposite side at high speed and hit the scooter on the wrong side of the road. Ramesh Kumar (PW2), rider of the scooter, sustained injuries in the accident. The informant, Gian Chand (PW1), rushed to the spot. The driver of the van identified himself as Bunty (the present accused). The informant requested the accused to carry the injured to the hospital, but the accused sped away from the spot. The accident occurred because of the negligence of the accused and the high speed of the van. The injured was carried to the hospital, the matter was reported to the police, and an entry (Ext.PW3/A) was recorded in the police station. SI Mehar Singh (PW4) was directed to verify the

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correctness of the information. He filed an application (Ext.PW4/A) for obtaining the opinion of the Medical Officer whether the injured was fit to make the statement or not. The Medical Officer certified that the injured was unfit to make the statement and referred him to Tanda Hospital. SI Meher Singh (PW4) went to the spot and recorded the informant's statement (Ext.PW1/A) and sent it to the police station, where FIR (Ext.PW4/D) was registered. SI Meher Singh (PW4) obtained the MLC (Ext. PD) of the injured. SI Meher Singh (PW4) visited the spot, prepared the site plan (Ext.PW4/D), and seized the Scooter bearing registration No. HP-37A-4750 and the van bearing registration No. HP-37B-0290 vide memos (Ext. PA and Ext. PB). He found a piece of the registration plate lying on the spot, put it in a cloth parcel, sealed the parcel with seal "H", obtained the sample seal (Ext.PW4/E) on a separate piece of cloth, and seized the parcel vide memo (Ext.PW4/D). SI Meher Singh found a broken registration plate in the van, put it in a cloth parcel, sealed the parcel with seal "K", obtained the Seal impression (Ext.PW4/F) on a separate piece of cloth, and seized the parcel vide memo (Ext.PW4/F). The accused produced the documents of the vehicle, which were seized vide memo (Ext. PC). The

photographs (Ext.P1 to Ext.P9) were taken. The mechanical examination of the vehicles was conducted, and no defect was found in them that could have led to the accident. Reports (Ext. PJ and Ext. PK) were issued. Ramesh Chand produced the documents of the scooter which were seized vide memo (Ext.PW2/A). 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. 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 IPC and Section 187 of the MV Act, to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined seven witnesses to prove its case. Informant Gian Chand (PW1) and victim Ramesh Kumar (PW2) narrated the incident. HHC Trilok Raj (PW3) proved the entry in the daily diary. SI Mehar Singh (PW4) and ASI Desh Raj (PW6) investigated the matter. SI Baldev Singh (PW5) signed the

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FIR. Amar Singh Rana (PW7) proved that the accused was employed as the driver of the vehicle.

5. The accused, in his statement recorded under Section 313 of the Code of Criminal Procedure (CrPC), admitted that Ramesh Kumar (PW2) was driving the scooter bearing registration No. HP-37A-4750, who was taken to the hospital and the police were informed about the accident. He denied that he was driving the Maruti van on the date of the accident and claimed that Soni Kumar was driving the van. He stated that the driver of the scooter was driving it in a state of intoxication and he hit the scooter with the van towards the wrong side of the road. He examined Vicky (DW1) to prove his defence.

6. The learned Trial Court held that the prosecution version that the accused was driving the van was duly proved on record and the defence version that the accused was travelling in the van being driven by Soni Kumar was not proved. The accident had occurred on the right side of the road for the van, which showed the negligence of the accused. The plea taken by the accused that the accused was driving the scooter in a state of

intoxication was not proved. Hence, the learned Trial Court convicted and sentenced the accused as under:

Sections	Sentence
Section 279 of Indian Penal Code	To undergo simple imprisonment for three months, pay a fine of ₹500/-and in default of payment of fine, to undergo further simple imprisonment for one month.
Section 338 of Indian Penal Code	To undergo simple imprisonment for six months, pay a fine of ₹1000/-and in default of payment of fine, to undergo further simple imprisonment for two months.
Section 187 of the Motor Vehicle Act	To undergo simple imprisonment for one month.
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-III, Kangra at Dharamshala, Camp at Palampur, District Kangra (learned Appellate Court). The learned Appellate Court concurred with the findings recorded by the learned Trial Court that the accused was driving the van at the time of the accident and the plea taken by him that Soni Kumar was driving the van was not established.

The accident had occurred on the right side of the road, showing the negligence of the accused. Ramesh Kumar (PW2) had sustained simple and grievous injuries in the accident. The accused had not taken the injured to the hospital despite the informant's request and fled away from the spot. The learned Trial Court had imposed an adequate sentence. There was no infirmity in the judgment and order passed by the learned Trial Court. Hence, the appeal was dismissed.

8. Being aggrieved by the judgment and order passed by the learned Trial Court, the accused has filed the present revision, asserting that the statements of prosecution witnesses contradicted each other on material particulars, which made the prosecution case highly suspect. Victim Ramesh Kumar (PW2) was heavily drunk, and he had violated the provisions of the Motor Vehicles Act. The defence witness proved that the accident had occurred because of the negligence of the scooterist, and the accused had accompanied the injured to the hospital. The learned Courts below erred in rejecting the defence of the accused. Therefore, it was prayed that the present revision be allowed and the judgments and order passed by the learned Courts below be set aside.

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9. I have heard Mr Atharv Sharma, learned counsel for the petitioner/accused, and Mr Ajit Sharma, learned Deputy Advocate General for the respondent/State.

10. Mr Atharv Sharma, learned counsel for the petitioner/accused, submitted that the MLC of the injured proved that he was in a state of intoxication, and this MLC was ignored by the learned Courts below. The defence taken by the accused that he was travelling in the van and was not driving it was duly proved by the testimony of the defence witness. The statement of the defence witness cannot be discarded merely because he happened to be a defence witness, and the rule of appreciation of evidence is the same for prosecution and the defence witnesses. Therefore, he prayed that the present revision be allowed and the judgments and order passed by the learned Courts below be set aside.

11. Mr Ajit Sharma, learned Deputy Advocate General for the respondent/State, submitted that both the learned Courts below have concurrently held that the accused was driving the van at the time of the accident and the plea taken by him that Soni Kumar was driving the van was not proved on record. The

accident had occurred on the right side of the road for the van, which showed the negligence of the accused. This Court should not re-appreciate the evidence while deciding the revision. Hence, he prayed that the present revision be dismissed.

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

13. It was laid down by the Hon'ble Supreme Court in ***Kuntegowda v. Thurubaiah, 2026 SCC OnLine SC 1485*** that a revisional court does not act as an appellate court and it can only determine the correctness, legality and propriety of the findings, sentence and order recorded by the lower court. It was observed:

> "**7.** Before parting, we would like to accentuate the revisional jurisdiction of the High Courts and the contours and inherent limits while exercising powers as a revisional authority. Section 397 of the Criminal Procedure Code, 1973 (now, Section 438 of Bharatiya Nagarik Suraksha Sanhita, 2023) encapsulates the power of High Courts and Sessions Courts to examine the correctness, legality or propriety of any order passed by an inferior criminal court. The said Section is extracted as hereunder:
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> > "**438. Calling for records to exercise powers of revision.**—(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior

Court, and may, when calling, for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement that he be released on his own bond or bail bond pending the examination of the record.

Explanation. —All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this subsection and of section 439.

(2) The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them."

Discretion in the exercise of revisional jurisdiction should be exercised within the four corners of this section whenever there has been miscarriage of justice. However, while exercising power under this section, the Court does not act as an appellate Court and therefore, while considering the legality, propriety or the correctness of a finding or a conclusion, the revisional court does not and should not dwell upon the facts and the evidence of the case as an appellate Court. The court, in revision, considers the material only to satisfy itself about the correctness, legality and propriety of the findings, sentence and order recorded by the lower court, and should refrain from substituting its conclusion on an elaborate consideration of evidence, and the findings of the lower courts should not be reversed merely on the ground that an alternative view is possible on the facts of the case. In this case, such a position did not also emanate from the evidence on record.

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7.1. This Court, in ***State of Maharashtra v. Jagmohan Singh Kuldip Singh Anand, (2004) 7 SCC 659: 2004 SCC (Cri) 2003,*** observed that the High Court, in exercise of its revisional jurisdiction, cannot embark upon an in-depth roving re-examination of the oral evidence and medical evidence and come to a conclusion contrary to the consistent one reached by two courts below. In the facts of the present case, in the impugned judgment, the High Court gravely erred in upsetting the concurrent findings of conviction of the trial court and the Appellate Court by substituting its own conclusions and reasoning on the merits of the case and thereby erred in setting aside the well-reasoned and correct judgment and orders of the trial and appellate courts.

7.2. Upon perusal of the impugned judgment and order dated 06.10.2023, it is apparent that the High Court went into great detail into each of the testimonies, documents and merits of the case which could have been avoided, especially when the subject matter had come under its revisional jurisdiction. Instead, acting as an appellate Court, the High Court deemed it fit to go into the merits of the case, something which is generally impermissible unless a glaring contradiction is apparent on the face of the record. In ***State of Kerala v. Puttumana Illath Jathavedan Namboodiri, (1999) 2 SCC 452; 1999 SCC (Cri) 275***, while considering the scope of the revisional jurisdiction of the High Court, this Court has laid down the following:

> "5. ... In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of supervisory jurisdiction exercised by the High Court for correcting a miscarriage of justice. But the said revisional power cannot be equated with the power of an appellate court nor can it be treated even as a second appellate jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to re-appreciate the

evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to a gross miscarriage of justice. On scrutinising the impugned judgment of the High Court from the aforesaid standpoint, we have no hesitation in coming to the conclusion that the High Court exceeded its jurisdiction in interfering with the conviction of the Respondent by reappreciating the oral evidence. ..."

7.3. The contours for exercise of revisional jurisdiction have been well settled by the judicial dicta of this Court wherein time and again it has been observed that the High Court shall not interfere with the orders of the lower court unless:

i. The order or finding of the lower court is perverse, grossly erroneous, glaringly unreasonable or wholly unreliable or untenable in law.

ii. The lower court has passed the impugned order after considering immaterial or irrelevant material or no material at all.

iii. There is a non-consideration of any relevant material or the judicial discretion has been exercised arbitrarily or capriciously.

7.4. This Court, in ***Sanjabij Tari v. Kishore S. Borcar, 2025 INSC 1158,*** in similar facts and circumstances wherein the High Court had reversed concurrent findings of conviction under Section 138 of the NI Act, while setting aside the impugned order, observed as under:

"27. It is well settled that in exercise of revisional jurisdiction, the High Court does not, in the absence of perversity, upset concurrent factual findings. This Court is of the view that it is not for the Revisional Court to reanalyse and re-interpret the evidence on record. As held by this Court in ***Southern Sales & Services v. Sauermilch Design and Handels GMBH, (2008) 14 SCC***

> **457**, it is a well-established principle of law that the Revisional Court will not interfere, even if a wrong order is passed by a Court having jurisdiction, in the absence of a jurisdictional error.
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> 28. Consequently, this Court is of the view that in the absence of perversity, it was not open to the High Court in the present case, in revisional jurisdiction, to upset the concurrent findings of the Trial Court and the Sessions Court."
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> **7.5.** In the facts of the present case, we find that the High Court has failed to highlight any reason or material satisfaction to the effect that there was any such glaring contradiction or perversity apparent on the face of the record so as to justify the exercise of the powers under revisional jurisdiction and thereby erred in interfering with the judgment and orders of the courts below. Therefore, the present appeal has to be allowed by setting aside the impugned order of the High Court. In view of the aforesaid discussion, we are of the view that the High Court committed an error in setting aside the order of conviction in exercise of revisional jurisdiction. No sufficient ground has been mentioned by the High Court in its judgment to enable it to exercise its revisional jurisdiction for setting aside the conviction.

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

15. Amar Singh Rana (PW7) stated that he is the owner of the Van bearing registration No. HP-37B-0290. He had employed the accused as the driver, and the accused was driving the van on 12.06.2009. He (Amar Singh Rana) had issued a certificate (Ext.PW7/A) regarding this fact. He stated in his cross-

examination that the certificate was issued on 13.06.2009 at about 09:30 a.m. in the police station. The van was used to transport the children. However, he could not say where the vehicle was sent on the date of the accident. He denied that he was making a false statement.

16. Vicky (DW1) stated that he, Sunny and Uttam were present at the time of the accident. The accident had occurred because of the negligence of the scooterist. He stated in his cross-examination that the van is usually driven by the accused. The accused had also accompanied the injured to the hospital. He knew the accused because the accused had studied with him. He admitted that the accused was employed as a driver in the van.

17. The testimony of this witness corroborates the testimony of Amar Singh Rana (PW7) that he had employed the accused as the driver of the vehicle. This witness has nowhere stated that Soni Kumar was driving the van at the time of the accident. Thus, his testimony is insufficient to discard the testimony of Amar Singh Rana (PW7)

18. The accused did not dispute his presence in his statement recorded under Section 313 of the CrPC. He claimed

that he was occupying the rear seat in the van, but has not explained why he was occupying the rear seat when he was employed as the driver of the van and used to drive it. Therefore, the learned Courts below had rightly held the defence of the accused that he was not driving the van at the time of the accident, but Soni Kumar was driving the van was not proved.

19. The site plan (Ext.PW4/D) shows that the accident had taken place towards the right side of a vehicle coming from Bhawarna. The width of the road is shown to be 14 feet, and 9 feet of space is available towards the left side of the road for the van. This is duly corroborated by the photographs (Ext.PF5 and Ext.PF6), wherein the scooter is shown to be lying towards the extreme left side of the road. Broken pieces of the scooter are also lying adjacent to it, clearly showing that the scooter had not moved from its position. Vicky (DW1) admitted in his cross-examination that the scooter was visible towards its side in the photograph. He volunteered to say that the scooter fell on its side after the impact. He has not explained how the scooter would fall towards its own side if the accident had taken place towards the other side of the road. Hence, the testimony of Bunty (DW1) corroborates the site plan.

20. Ramesh Kumar (PW2) stated that he was driving the scooter towards his side. A van bearing registration No. HP-37B-0290 came from the opposite side and hit the scooter. His testimony that he was driving the scooter towards his own side is duly corroborated by the photographs and the site plan and was rightly accepted by the learned Courts below.

21. Vicky (DW1) stated that the scooterist was driving the scooter without switching on the headlights. Ramesh Kumar (PW2) specifically denied in his cross-examination that the headlight of the scooter was not functioning. A denied suggestion does not amount to any proof and is not sufficient to establish the defence version that the scooter was being driven without the headlight. The mechanical report (Ext.PK) does not show any defect in the headlight. Hence, the testimony of Vicky (DW1) that the headlights of the van were not functioning was rightly discarded by the learned Courts below.

22. The victim's MLC (Ext.PD) mentions that the patient was drowsy and irritable and there was a smell of alcohol. It was submitted that the Injured was driving the scooter under the influence of alcohol, which led to the accident. This submission

will not help the accused. The proximate cause of the accident was not driving the scooter in a state of intoxication but driving the van towards the wrong side of the road. Further, Section 185 of the Motor Vehicles Act provides that a person cannot drive a motor vehicle with alcohol exceeding 30 mg per 100 ml. There is no evidence that the accused had alcohol in his blood exceeding 30 mg per 100 ml. Therefore, the violation of Section 185 of the Motor Vehicles Act has not been established.

23. The statement of the injured that he was driving the scooter towards the left side of the road and the van had hit him on his left side is duly established on record by the photographs and the site plan. Learned Courts below had rightly held that driving a van towards the right side of the road constituted negligence on the part of the accused.

24. The Central Government has framed the Rules of the Road Regulations, 1989, to regulate the movement of traffic. Rule 2 provides that the driver of a vehicle shall drive the vehicle as close to the left side of the road as may be expedient and shall allow all the traffic which is proceeding in the opposite direction to pass on his right side. It was laid down in ***Fagu Moharana vs.***

State, AIR 1961 Orissa 71, that driving the vehicle on the right side of the road amounts to negligence. It was observed:

> "The car was on the left side of the road, leaving a space of nearly 10 feet on its right side. The bus, however, was on the right side of the road, leaving a gap of nearly 10 feet on its left side. There is thus no doubt that the car was coming on the proper side, whereas the bus was coming from the opposite direction on the wrong side. The width of the bus is only 7 feet 6 inches, and as there was a space of more than 10 feet on the left side, the bus could easily have avoided the accident if it had travelled on the left side of the road."

25. Similarly, it was held in ***State of H.P. Vs. Dinesh Kumar, 2008 H.L.J. 399***, where the vehicle was taken towards the right side of the road, the driver was negligent. It was observed:

> "The spot map, Ext. P.W. 10/A would show that at point 'A on the right side of the road, there were bloodstain marks and a V-shaped slipper of the deceased Anu. Point 'E' is the place where P.W. 1 Chuni Lal was standing at the time of the accident, and point 'G' is the place where P.W. 3 Anil Kumar was standing. The jeep was going from Hamirpur to Nadaun. The point 'A' in the spot map Ext. P.W. 10/A is almost on the extreme right side of the road."

26. This position was reiterated in ***State of H.P. vs. Niti Raj 2009 Cr.L.J. 1922,*** and it was held:

> "16. The evidence in the present case has to be examined in light of the aforesaid law laid down by the Apex Court. In the present case, some factors stand out clearly. The width of the pucca portion of the road was 10 ft. 6 inches. On the left side, while going from Dangri to Kangoo, there was a 7 ft. kacha portion, and on the other side, there was

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> an 11 ft. kacha portion. The total width of the road was about 28 ft. The injured person was coming from the Dangri side and was walking on the left side of the road. This has been stated both by the injured as well as by PW-6. This fact is also apparent from the fact that after he was hit, the injured person fell into the drain. A drain is always on the edge of the road. The learned Sessions Judge held, and it has also been argued before me, that nobody has stated that the motorcycle was on the wrong side. This fact is apparent from the statement of the witnesses, who state that they were on the extreme left side, and the motorcycle, which was coming from the opposite side, hit them. It does not take a genius to conclude that the motorcycle was on the extreme right side of the road and therefore on the wrong side."

27. In ***Shakila Khader v. Nausheer Cama*, *(1975) 4 SCC 122: 1975 SCC (Cri) 379: 1975 SCC OnLine SC 103***, the car went to the right side of the road, hit the parapet and turned turtle. It was held by the Hon'ble Supreme Court that the driver was negligent. It was observed at page 126:

> "**6.** The facts in the case speak eloquently about what should have happened. The main criterion for deciding whether the driving that led to the accident was rash and negligent is not only the speed but also the width of the road, the density of the traffic, and the attempt, as in this case, to overtake the other vehicles, resulting in going to the wrong side of the road and being responsible for the accident. Even if the accident took place in the twinkling of an eye, it is not difficult for the eyewitness to notice a car overtaking other vehicles and going to the wrong side of the road and hitting a vehicle travelling on that side of the road. The criterion adopted by the learned Judge for assessing the evidence of PWs 3 and 4 and rejecting them is thoroughly unjustifiable. There may be cases where it is

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difficult to be clear or specific in giving details as to the cause of the accident, but this is not one such case. The reference by the learned Judge to the slight damage to the electric post and the conclusion drawn therefrom that the car could not have been going at a high speed is not correct, as we shall show later. His further observation that the fact that the car travelled another 45 feet and hit against the parapet wall and turned turtle showed that the car must have been travelling at an extremely high speed, but there is a little blue paint on the pole and a faint grey stain on the parapet wall, is self-contradictory unless we are to infer that the learned Judge implied that one or the other is not true. He does not so hold. There can be no doubt about the car having hit the electric post and the parapet wall. That, and the fact of its overturning, would establish the rash and negligent driving. A car driven normally and travelling behind a bus does not go to the opposite side of the road, hit an electric post and parapet wall, and turn turtle. The car apparently stopped only because it turned turtle. It did not hit the electric post or the parapet wall full tilt; if it did, it would have stopped at one of those points. We should remember that the collision with the scooter and pushing it back would have considerably reduced the speed of the car. Even so, it travelled farther. The slight damage to the electric post and the parapet wall is because the car hit them sideways. Nobody has suggested that they were brought into existence for this case. The car would probably not have stopped but for turning turtle, and it should have been travelling quite fast before it could overturn, as the learned Judge himself realises. There is only one conclusion possible on the facts of this case, and that is that the accused came over to the wrong side of the road and was responsible for the accident, and that is clearly a rash and negligent act in the condition of the road and the condition of the traffic."

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28. The accused breached the Rules of the Road Regulations, which was the proximate cause of the accident. Hence, the prosecution's version that the accident occurred because of the negligence of the accused has to be accepted as correct.

29. MLC (Ext. PD) mentions that the victim had sustained contusion with fracture of tibia, and the injury no. 3 was grievous. This MLC was admitted to be correct by the accused. Thus, it was duly proved on record that Ramesh Chand (PW2) had sustained grievous injuries in the accident, and the learned Trial Court had rightly convicted the accused of the commission of offences punishable under Sections 279 and 338 of the IPC.

30. The informant stated that he had asked the accused to take the injured to the hospital, but the accused sped away from the spot. Vicky (DW1) stated that the accused had accompanied the injured to the hospital. However, his testimony is found to be not worthy of credence. The van was also not found in the hospital, which would have corroborated the defence version. Hence, the learned Courts below had rightly held that the accused had failed to carry the injured to the hospital after the

accident, and there is no infirmity in the conviction recorded by the learned Trial Court for the commission of an offence punishable under Section 187 of the Motor Vehicles Act.

31. It was submitted that the benefit of the Probation of Offenders Act was not granted to the accused, and such a benefit should have been extended to him. This submission is not acceptable. It was laid down by the Hon'ble Supreme Court in ***Dalbir Singh Versus State of Haryana (2000) 5 SCC 82*** that the benefit of the Probation of Offenders Act cannot be granted to a person found driving the vehicle negligently. It was observed:

> "11. Courts must bear in mind that when any plea is made based on S. 4 of the PO Act for application to a convicted person under S. 304-A of I.P.C., road accidents have proliferated to an alarming extent, and the toll is galloping up day by day in India and that no solution is in sight nor suggested by any quarters to bring them down. When this Court lamented two decades ago that "more people die of road accidents than by most diseases, so much so that the Indian highways are among the top killers of the country", the saturation of accident toll was not even half of what it is today. So V. R. Krishna Iyer, J., has suggested in the said decision, thus :
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> "Rashness and negligence are relative concepts, not absolute abstractions. In our current conditions, the law under S. 304-A, I.P.C. and under the rubric of negligence, must have due regard to the fatal frequency of rash driving of heavy-duty vehicles and speeding menaces."
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> 12. In ***State of Karnataka v. Krishna alias Raju (1987) 1 SCC 538,*** this Court did not allow a sentence of fine, imposed on

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> a driver who was convicted under S. 304-A, I.P.C., to remain in force although the High Court too had confirmed the said sentence when an accused was convicted of the offence of driving a bus callously and causing the death of a human being. In that case, this Court enhanced the sentence to rigorous imprisonment for six months besides imposing a fine.
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> 13. Bearing in mind the galloping trend in road accidents in India and the devastating consequences for the victims and their families, Criminal Courts cannot treat the nature of the offence under S. 304-A, I.P.C. as attracting the benevolent provisions of S. 4 of the PO Act. While considering the quantum of sentence to be imposed for the offence of causing death by rash or negligent driving of automobiles, one of the prime considerations should be deterrence. A professional driver pedals the accelerator of the automobile almost throughout his working hours. He must constantly inform himself that he cannot afford to have a single moment of laxity or inattentiveness when his leg is on the pedal of a vehicle in motion. He cannot and should not take a chance thinking that rash driving need not necessarily cause an accident, or even if any accident occurs, it need not necessarily result in the death of any human being, or even if such death ensues, he might not be convicted of the offence, and lastly, that even if he is convicted, he would be dealt with leniently by the Court. He must always keep in mind the fear psyche that if he is convicted of the offence of causing the death of a human being due to his callous driving of a vehicle, he cannot escape from a jail sentence. This is the role which the Courts can play, particularly at the level of trial Courts, for lessening the high rate of motor accidents due to the callous driving of automobiles."

32. A similar view was taken in ***Thakur Singh v. State of Punjab, (2003) 9 SCC 208,*** wherein it was observed: -

> **6.** Learned counsel lastly made an alternative plea that the Probation of Offenders Act may be applied to secure his job. This Court has held in ***Dalbir Singh v. State of Haryana [(2000) 5 SCC 82]*** that the Probation of Offenders Act cannot be invoked in cases involving rash or negligent driving of the bus resulting in the death of human beings."

33. This position was reiterated in ***State of Punjab v. Balwinder Singh*****, *(2012) 2 SCC 182*,** wherein it was held: -

> **13.** It is a settled law that sentencing must have a policy of correction. If anyone has to become a good driver, they must have better training in traffic laws and moral responsibility, with special reference to the potential injury to human life and limb. Considering the increased number of road accidents, this Court, on several occasions, has reminded the criminal courts dealing with the offences relating to motor accidents that they cannot treat the nature of the offence under Section 304-A IPC as attracting the benevolent provisions of Section 4 of the Probation of Offenders Act, 1958. We fully endorse the view expressed by this Court in ***Dalbir Singh [(2000) 5 SCC 82: 2004 SCC (Cri) 1208]***.

34. Therefore, it is impermissible to grant the benefit of the Probation of Offenders Act to a person convicted of driving a vehicle in a rash and negligent manner

35. Learned Trial Court had sentenced the accused to undergo simple imprisonment for six months for the commission of offences punishable under Section 338 and pay a fine of ₹1000/- with default clause. Considering that the accused had driven the Van in a negligent manner, leading to the injury to

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the informant, and he had failed to carry the injured to the hospital, the sentence of six months cannot be said to be excessive. Therefore, no interference is required with the judgment and order passed by learned Courts below.

36. No other point was urged.

37. In view of the above, the present revision fails, and it is dismissed. All the pending applications, if any, also stand disposed of.

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

(Rakesh Kainthla)
Judge

25th November, 2026
(Nikita)