2026:HHC:50055

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No. 369 of 2015
Reserved on: 30.10.2026
Date of Decision: 19.11.2026.

Joginder Singh ...Petitioner

Versus

State of H.P. ...Respondent

Coram
Hon'ble Mr Justice Rakesh Kainthla, Judge.
Whether approved for reporting?[1] *Yes*

For the Petitioner : Mr. Vipin Pandit, Advocate.

For the respondent/State : Mr. P.K. Nadda, Additional Advocate General.

Rakesh Kainthla, Judge

The present revision is directed against the judgment dated 06.08.2015 passed by learned Additional Sessions Judge-I, Solan, District, Solan, camp at Nalagarh (learned Appellate Court) vide which the judgment of conviction dated 30.08.2012 and order of sentence dated 24.09.2012 passed by learned Judicial Magistrate First Class, Court No. 2, Nalagarh, District Solan (learned Trial Court) were

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

upheld. *(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 complaint are that the police presented a challan before the learned Trial Court against the accused for the commission of offences punishable under Sections 279 and 304A of the Indian Penal Code (in short "IPC") and Sections 181 and 190 (3) of the Motor Vehicles Act (in short "MV Act"). It was asserted that the informant, Bhag Singh (PW2), is running a shop at Peerthan. A truck bearing registration number HP-12-2588 came from Baddi at about 8:25 p.m. at high speed. One of its headlights was not functioning. The truck hit the motorcycle without any registration number. The motorcycle rider sustained injuries. The informant and other people carried the injured to the hospital. The truck driver identified himself as Joginder Singh (the present accused). The accident occurred because of the negligence of the accused and the high speed of the truck. An intimation was given to the police. An entry (Ext.PW8/A) was recorded at the Police Station, and ASI Paramjit Singh (PW6) went for verification. He recorded the informant's statement

(Ext.PW2/A) and sent it to the police station, where FIR (Ext.PW6/A) was registered. ASI Paramjit Singh (PW6) investigated the matter. He prepared the site plan (Ext.PW6/B), took photographs of the spot (Ext.P1 to Ext.P4), whose negatives are Ext. P5 to Ext. P8, and seized the motorcycle and the truck vide memo (Ext.PW2/B). Rajinder Singh (PW3) examined the vehicles and found that they had no defect that could have led to the accident. He issued the reports (Ext.PW3/A and Ext. PW3/B). ASI Paramjit Singh (PW6) went to the hospital, where he found that the injured Mukesh Kumar had succumbed to his injuries. ASI Paramjit Singh (PW6) conducted the inquest (Ext. PW5/A) on the dead body and filed an application for conducting the post-mortem examination of the deceased. Dr Seema (PW9) conducted the post-mortem examination and found that the cause of death was a head injury. She issued the report (Ext.PW9/A). Bimal Gupta, the owner of the truck, produced the documents which were seized vide memo (Ext. PW5/A). Yashpal produced the documents of the motorcycle which were seized vide memo (Ext. PW4/A). 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 and 304A of the IPC and Sections 181 and 190 (3) of the MV Act, to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined nine witnesses to prove its case. Gurcharan Singh (PW1) did not support the prosecution's case. The informant Bhag Singh (PW2) witnessed the accident. Rajinder Singh (PW3) conducted the mechanical examination of the vehicles. Narinder Kumar (PW4), HC Ram Nath (PW5) and Mohammed Mushtaq (PW7) witnessed the recoveries. ASI Paramjit Singh (PW6) conducted the investigation. Constable Naresh Kumar (PW8) proved the entry in the daily diary. Dr Seema (PW9) conducted the postmortem examination.

5. The accused, in his statement recorded under Section 313 of the Code of Criminal Procedure (CrPC), admitted

that he was driving the truck bearing registration number HP-12-2588, which was taken into possession by the police. He denied the rest of the prosecution's case. He stated that the motorcycle had not hit the truck and he was innocent. He did not produce any evidence in his defence.

6. The learned Trial Court held that the informant Bhag Singh did not name the driver of the truck; however, the accused admitted in his statement recorded under section 313 of the CrPC that he was driving the truck at the time of the accident. The suggestions put to the informant also established that the accused was driving the truck at the time of the accident. It was duly proved on record that one of the headlights of the truck was not functioning, and the truck was being driven towards the wrong side of the road. These circumstances proved the negligence of the accused. Mukesh had died in the accident caused by the negligence of the accused. The accused had also not produced his driving licence. Hence, the learned Trial Court convicted and sentenced the accused as under:

Sections	*Sentences*
279 of the Indian Penal Code	The accused was sentenced to undergo simple imprisonment for three months, pay a fine of ₹1,000/-, and, in default of payment of the fine, to undergo further simple imprisonment for 30 days.
304-A of the Indian Penal Code	The accused was sentenced to undergo simple imprisonment for three months, pay a fine of ₹1000/-, and, in default of payment of the fine, to undergo further simple imprisonment for 30 days.
181 of the Motor Vehicles Act.	The accused was sentenced to undergo simple imprisonment for three months, pay a fine of ₹500/-, and, in default of payment of the fine, to undergo further simple imprisonment for 30 days.
190 (3) of the Motor Vehicle Act.	The accused was sentenced to undergo simple imprisonment for three months, pay a fine of ₹3,000/-, and, in default of payment of the fine, to undergo further 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-I, Solan, District Solan, Camp at Nalagarh (learned Appellate Court). The learned Appellate Court concurred with the findings recorded by the learned Trial Court that the accused admitted in his statement recorded under section 313 of the CrPC that he was driving the vehicle at the time of the accident. It was duly proved on record that the truck had only one headlight functioning. Driving the truck in the middle of the night with one headlight functioning amounted to negligence. Mukesh Kumar died in the accident because of the negligence of the accused. The learned Trial Court had imposed an adequate sentence, and no interference was required with the judgment and order passed by the learned Trial Court. Hence, the appeal was dismissed.

8. Being aggrieved by the judgments and order passed by the learned Courts below, the accused has filed the present revision, asserting that the learned Courts below erred in appreciating the material on record. The statements of the prosecution witnesses contradicted each other on material

aspects. The site plan does not corroborate the statements of the witnesses. The informant Bhag Singh specifically stated that the motorcycle had hit the truck, which showed the negligence of the motorcyclists. The prosecution had not led any evidence to show that the accused was driving the truck at the time of the accident, and the learned Courts below erred in relying upon the statement of the accused recorded under section 313 of the CrPC to record the conviction 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.

9. I have heard. Mr Vipin Pandit, learned counsel for the petitioner/accused, and Mr P K Nadda, learned Additional Advocate General for the respondent/State.

10. Mr Vipin Pandit, learned counsel for the petitioner/accused, submitted that the learned Courts below erred in appreciating the evidence on record. The statements of prosecution witnesses contradicted each other on material aspects. The prosecution had not led any evidence to show that the accused was driving the truck at the time of the accident,

and the learned Courts below relied upon the statement of the accused recorded under section 313 of the CrPC to convict the accused. The statement of the accused recorded under section 313 of the CrPC does not amount to substantive evidence, and no conviction could have been recorded on it. There was no evidence of the negligence of the accused, and the learned Courts below erred in convicting the accused merely because an accident had taken place. The benefit of the Probation of Offenders Act was not extended to the accused. 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 P K Nadda, learned Additional Advocate General for the respondent/State, submitted that the accused had admitted in his statement recorded under section 313 of the CrPC that he was driving the truck at the time of the accident and the learned Courts below had rightly relied upon the statement. It was duly proved on record that the truck was being driven towards the wrong side of the road with only one functioning headlight, which showed the negligence of the accused. Mukesh Kumar had died in the accident and learned Courts below had rightly convicted and sentenced 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:
>
> > "**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.

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 to come 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.
>
> 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."

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 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.

15. The informant Bhag Singh (PW2) stated that he could not identify the truck driver because the driver had run away from the spot. He admitted in his cross-examination that the police had not asked him to identify the truck driver and he could not say who was driving the truck at the time of the accident. Therefore, his testimony does not prove that the accused was driving the truck at the time of the accident.

16. The prosecution did not examine the owner of the truck to prove that he had employed the accused as the driver. No other person stated that the accused was driving the truck at the time of the accident. Thus, the prosecution's evidence did not prove that the accused was driving the truck at the time of the accident.

17. The learned Courts below held that the statement of the accused recorded under section 313 of CrPC proved that the accused was driving the truck at the time of the accident. This conclusion cannot be sustained. It was laid down by the Hon'ble Supreme Court in ***Mohan Singh v. Prem Singh, (2002) 10 SCC 236: 2003 SCC (Cri) 1514: 2002 SCC OnLine SC 933***, that the statement made by the accused under Section 313 CrPC can be

used to lend credence to the evidence led by the prosecution, but such statement cannot form the sole basis for conviction. It was observed at page 244:

> **27.** The statement made in defence by the accused under Section 313 CrPC can certainly be taken aid of to lend credence to the evidence led by the prosecution, but only a part of such statement under Section 313 of the Code of Criminal Procedure cannot be made the sole basis of his conviction. The law on the subject is almost settled that the statement under Section 313 CrPC of the accused can either be relied on in whole or in part. It may also be possible to rely on the inculpatory part of his statement if the exculpatory part is found to be false on the basis of the evidence led by the prosecution. See ***Nishi Kant Jha v. State of Bihar (1969) 1 SCC 347: AIR 1969 SC 422***: (SCC pp. 357-58, para 23)
>
> > "23. In this case, the exculpatory part of the statement in Exhibit 6 is not only inherently improbable but is contradicted by the other evidence. According to this statement, the injury that the appellant received was caused by the appellant's attempt to catch hold of the hand of Lal Mohan Sharma to prevent the attack on the victim. This was contradicted by the statement of the accused himself under Section 342 CrPC to the effect that he had received the injury in a scuffle with a herdsman. The injury found on his body when he was examined by the doctor on 13-10-1961 negates both these versions. Neither of these versions accounts for the profuse bleeding which led to his washing his clothes and having a bath in River Patro, the amount of bleeding and the washing of the bloodstains being so considerable as to attract the attention of Ram Kishore Pandey, PW 17 and asking him about the cause thereof. The

> bleeding was not a simple one, as his clothes all got stained with blood, as also his books, his exercise book, his belt and his shoes. More than that, the knife which was discovered on his person was found to have been stained with blood according to the report of the Chemical Examiner. According to the post-mortem report, this knife could have been the cause of the injuries on the victim. *In circumstances like these, there being enough evidence to reject the exculpatory part of the statement of the appellant in Exhibit 6, the High Court had acted rightly in accepting the inculpatory part and piercing the same with the other evidence to come to the conclusion that the appellant was the person responsible for the crime*." (emphasis supplied)

18. It was laid down in ***Ramnaresh v. State of Chhattisgarh, (2012) 4 SCC 257: (2012) 2 SCC (Cri) 382: 2012 SCC OnLine SC 213***, that the statement of the accused under Section 313 Cr.P.C., insofar as it supports the prosecution's case, can be used against him for recording a conviction. It was observed at page 275: -

> "**52.** It is a settled principle of law that the obligation to put material evidence to the accused under Section 313 CrPC is upon the court. One of the main objects of recording a statement under this provision of the CrPC is to give an opportunity to the accused to explain the circumstances appearing against him as well as to put forward his defence, if the accused so desires. But once he does not avail this opportunity, then consequences in law must follow. Where the accused takes benefit of this opportunity, then his statement made under Section 313 CrPC, insofar as it supports the case of the

> prosecution, can be used against him for rendering a conviction. Even under the latter, he faces the consequences in law."

19. This position was reiterated in ***Ashok Debbarma v. State of Tripura, (2014) 4 SCC 747: (2014) 2 SCC (Cri) 417: 2014 SCC OnLine SC 199***, and it was held that the statement of the accused recorded under Section 313 of the Cr.P.C. can be used to lend corroboration to the statements of prosecution witnesses, but the accused cannot be held liable for punishment merely based on the answers given by him in his statement recorded under section 313 of the CrPC. It was held at page 761: -

> **24.** We are of the view that, under Section 313 statement, if the accused admits that, from the evidence of various witnesses, four persons sustained severe bullet injuries by the firing by the accused and his associates, that admission of guilt in Section 313 statement cannot be brushed aside. This Court, in ***State of Maharashtra v. Sukhdev Singh [(1992) 3 SCC 700: 1992 SCC (Cri) 705*** held that since no oath is administered to the accused, the statement made by the accused under Section 313 CrPC will not be evidence stricto sensu and the accused, of course, shall not render himself liable to punishment merely on the basis of answers given while he was being examined under Section 313 CrPC. But, sub-section (4) says that the answers given by the accused in response to his examination under Section 313 CrPC can be taken into consideration in such an inquiry or trial. This Court, in ***Hate Singh Bhagat Singh v. State of Madhya Bharat, 1951 SCC 1060: AIR 1953 SC 468: 1953 Cri LJ 1933,*** held that the answers given by the accused under Section 313 examination can be used for

proving his guilt as much as the evidence given by the prosecution witness. In ***Narain Singh v. State of Punjab (1964) 1 Cri LJ 730: (1963) 3 SCR 678,*** this Court held that when the accused confesses to the commission of the offence with which he is charged, the court may rely upon the confession and proceed to convict him.

25. This Court in ***Mohan Singh v. Prem Singh (2002) 10 SCC 236: 2003 SCC (Cri) 1514*** held that: (SCC p. 244, para 27)

> "27. The statement made in defence by the accused under Section 313 CrPC can certainly be taken aid of to lend credence to the evidence led by the prosecution, but only a part of such statement under Section 313 CrPC cannot be made the sole basis of his conviction."
>
> In this connection, reference may also be made to the judgments of this Court in ***Devender Kumar Singla v. Baldev Krishan Singla (2005) 9 SCC 15: 2005 SCC (Cri) 1185;*** and ***Bishnu Prasad Sinha v. State of Assam (2007) 11 SCC 467: (2008) 1 SCC (Cri) 766***. The above-mentioned decisions would indicate that the statement of the accused under Section 313 CrPC for the admission of his guilt or confession as such cannot be made the sole basis for finding the accused guilty, the reason being that he is not making the statement on oath, but all the same, the confession or admission of guilt can be taken as a piece of evidence since the same lends credence to the evidence led by the prosecution.
>
> **26.** We may, however, indicate that the answers given by the accused while examining him under Section 313, fully corroborate the evidence of PW 10 and PW 13 and hence the offences levelled against the appellant stand proved, and the trial court and the High Court have rightly found him

guilty for the offences under Sections 326, 436 and 302 read with Section 34 IPC."

20. A similar view was taken in ***Mohd. Firoz v. State of M.P.*, *(2022) 7 SCC 443: (2022) 3 SCC (Cri) 165 : 2022 SCC OnLine SC 480,*** wherein it was observed at page 460:

> "**36.**....There cannot be gainsaying that no conviction could be based on the statement of the accused recorded under Section 313CrPC and the prosecution has to prove the guilt of the accused by leading independent and cogent evidence; nonetheless, it is an equally settled proposition of law that when the accused makes inculpatory and exculpatory statements, the inculpatory part of the statement can be taken aid of to lend credence to the case of the prosecution.
>
> *****
>
> **38.** In the instant case also, though the conviction of the appellant-accused could not be made merely on his admission of the circumstance of his visit to the house of the informant on the previous day evening of the fateful day, such admission could certainly be taken aid of to lend assurance to the evidence of the prosecution.

21. The law relating to the statement of the accused under Section 313 of CrPC was summarised in ***Indrakunwar v. State of Chhattisgarh, 2023 SCC OnLine SC 1364*** wherein it was observed:

> **35.** A perusal of various judgments [***Premchand v. State of Maharashtra, (2023) 5 SCC 522 (2-Judge Bench); Jai Dev v. State of Punjab [AIR 1963 SC 612]; Asraf Ali v. State of Assam, (2008) 16 SCC 328 (2-Judge Bench); Inspector of Customs v. Yashpal, (2009) 4 SCC 769 (3-Judge Bench);***

Fainul Khan v. State of Jharkhand, (2019) 9 SCC 549 (2-Judge Bench); Mohd. Firoz v. State of M.P., (2022) 7 SCC 443 (3-Judge Bench); Bishnu Prasad Sinha v. State of Assam, (2007) 11 SCC 467 (2-Judge Bench; Dehal Singh v. State of H.P., (2010) 9 SCC 85 (2-Judge Bench); Brajendrasingh v. State of M.P., (2012) 4 SCC 289 (2-Judge Bench); Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116 (3-Judge Bench); Hate Singh Bhagat Singh v. State of Madhya Pradesh [1951 SCC 1060]; Shamu Balu Chaugule v. State of Maharashtra, (1976) 1 SCC 438; Paul v. State of Kerala, (2020) 3 SCC 115 (2-Judge Bench); Kalicharan v. State of U.P., (2023) 2 SCC 583 (2-Judge Bench); Nasib Singh v. State of Punjab, (2022) 2 SCC 89 (3-Judge Bench); Jai Prakash Tiwari v. State of Madhya Pradesh, 2022 SCC OnLine SC 966 (3-Judge Bench); Satbir Singh v. State of Haryana, (2021) 6 SCC 1 (2-Judge Bench); Bable v. State of Chhattisgarh, (2012) 11 SCC 181 (2-Judge Bench); and ***Selvi v. State of Karnataka, (2010) 7 SCC 263 (3-Judge Bench)***.] rendered by this Court reveals the following principles, as evolved over time when considering such statements.

35.1 The object, evident from the Section itself, is to enable the accused to explain any circumstances appearing in the evidence against them.

35.2 The intent is to establish a dialogue between the Court and the accused. This process benefits the accused and aids the Court in arriving at the final verdict.

35.3 The process enshrined is not a matter of procedural formality but is based on the cardinal principle of natural justice, i.e., *audi alteram partem*.

35.4 The ultimate test when concerned with the compliance of the Section is to enquire and ensure whether the accused got the opportunity to say his piece.

35.5 In such a statement, the accused may or may not admit involvement or any incriminating

circumstance or may even offer an alternative version of events or interpretation. The accused may not be put to prejudice by any omission or inadequate questioning.

35.6 The right to remain silent or any answer to a question which may be false shall not be used to his detriment, being the sole reason.

35.7 This statement cannot form the sole basis of conviction and is neither a substantive nor a substitute piece of evidence. It does not discharge but reduces the prosecution's burden of leading evidence to prove its case. They are to be used to examine the veracity of the prosecution's case.

35.8 This statement is to be read as a whole. One part cannot be read in isolation.

35.9 Such a statement, as not on oath, does not qualify as a piece of evidence under Section 3 of the Indian Evidence Act, 1872; however, the inculpatory aspect as may be borne out from the statement may be used to lend credence to the case of the prosecution.

35.10 The circumstances not put to the accused while rendering his statement under the Section are to be excluded from consideration as no opportunity has been afforded to him to explain them.

35.11 The Court is obligated to put, in the form of questions, all incriminating circumstances to the accused so as to give him an opportunity to articulate his defence. The defence so articulated must be carefully scrutinised and considered.

35.12 Non-compliance with the Section may cause prejudice to the accused and may impede the process of arriving at a fair decision.

22. Therefore, it is apparent from the judgments of the Hon’ble Supreme Court that the Court can rely upon the

statements of the accused made under Section 313 Cr.P.C. to lend assurance to the prosecution case. However, the statement recorded under Section 313 Cr.P.C. cannot form the sole basis for conviction without any evidence. The reason for this is not far to seek. The Courts can only put the proved incriminating circumstances to the accused in a statement recorded under Section 313 Cr.P.C., and if there are no incriminating circumstances, the question cannot be put to the accused, and the accused cannot be expected to answer it. Hence, any question put without any evidence and any answer thereto will be insufficient to record the conviction of the accused. The statement recorded under section 313 of the CrPC is intended for the benefit of the accused to explain any incriminating circumstances appearing in the record against him and not for the benefit of prosecution to elicit incriminating facts from the accused.

23. In the present case also, no witness had deposed that the accused was driving the truck at the time of the accident the learned trial Court could not have put any question to the accused that he was driving the truck at the time of the accident, and the accused cannot be held liable merely because

he had admitted in his statement recorded under section 313 of the CrPC that he was driving the truck at the time of the accident.

24. The learned appellate Court was aware of the legal position but held that in the present case the prosecution had adduced cogent and satisfactory evidence on the point of accident and the cause thereof; however, it ignored that there was no evidence regarding the identity of the accused as the driver of the truck.

25. Learned trial Court also held that the suggestions put to the informant in the cross-examination also proved that the accused was driving the truck at the time of the accident because the accused could not have known about the pebbles on the road and how the motorcycle had hit the truck. This finding ignored the site plan (Ext. PW6/B) wherein the grits are shown to be lying at the place of the accident. Thus, the accused could not have been convicted merely because of the suggestions made to the informant.

26. Thus, the learned Courts below erred in relying upon the statement of the accused recorded under section 313

of the CrPC to record the conviction and the judgments and order passed by the learned Courts below cannot be sustained.

27. No other point was urged.

28. In view of the above, the judgments and order passed by the learned Courts below cannot be sustained. Hence, the present revision is allowed, and the judgment of conviction dated 30.08.2012 and order of sentence dated 24.09.2012 passed by learned Judicial Magistrate First Class, Court No. 2, Nalagarh, District Solan, as affirmed by the judgment dated 06.08.2015 passed by learned Additional Sessions Judge-I, Solan, District, Solan, camp at Nalagarh, are ordered to be set aside, and the accused is acquitted of the charged offences. The fine, if deposited, be refunded to the petitioner/accused after the expiry of the period of limitation, in case no appeal is preferred, and in case of appeal, the same be dealt with as per the orders of the Hon'ble Supreme Court of India.

29. In view of the provisions of Section 437-A of the Code of Criminal Procedure [Section 481 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)], the petitioner/accused is

directed to furnish personal bond in the sum of ₹25,000/- with one surety in the like amount to the satisfaction of the learned Registrar (Judicial) of this Court/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 petitioner/accused, on receipt of notice thereof, shall appear before the Hon'ble Supreme Court.

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

31. The present revision stands disposed of, and so do the pending miscellaneous application(s), if any.

(Rakesh Kainthla)
Judge

19th November, 2026
(Nikita)