IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 26 of 2015
Reserved on: 13.10.2026
Date of Decision: 28.10.2026.

State of H.P. ...Appellant

Versus

Sushil Kumar ...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?[1] *No.*

For the appellant/State: Mr Jitender Sharma, Additional Advocate General.

For the Respondent : Mr Parikshit Sharma, Advocate.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 27.9.2014, passed by the learned Judicial Magistrate First Class, Kandaghat, Camp at Solan, District Solan, H.P. (learned Trial Court), vide which the respondent (accused before the learned Trial Court) was acquitted of the commission of offences punishable under Sections 279, 337, 338, and 304A of the Indian Penal Code (IPC) and Section 187 of the Motor Vehicles Act (MV

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

Act). *(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 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, 338, and 304A of the IPC. It was asserted that the informant Dharmender Kumar (PW-1), Yoginder Kumar (PW-4), Vivek, and Anil Kumar (PW-3) were going towards Kleen from Chambaghat on a motorcycle bearing registration No. HP-52A-1183. A utility vehicle came from Rajgarh and hit the motorcycle towards the wrong side of the road, dragged the motorcycle for a distance of about 100 meters and sped away from the spot. The occupants of the motorcycle sustained injuries. They were taken to the hospital, and an intimation was given to the police. The police recorded an entry (Ext. PW-11/A) in the daily diary. ASI Dharam Singh (PW-13) was sent for verification. He recorded the informant's statement (Ext. PW-1/A) and sent it to the Police Station, where FIR (Ext. PW-13/A) was registered. Dharam Singh filed an application (Ext. PW-13/C) for the medical examination of the injured. Dr Raj Kumar (PW-14) examined Dharmender Kumar, Anil Kumar,

Vivek Thakur, and Yogesh Sharma, and found that Vivek Thakur, Anil Kumar and Dharmender Kumar had grievous injuries that could have been caused in a motor vehicle accident. He issued the MLCs (Ext. PW-14/B to Ext. PW-14/D). Dr Raj Kumar also found that Yogesh had sustained multiple injuries that could have been caused in a motor vehicle accident. Dr Raj Kumar issued an MLC (Ext. PW-14/A). Vivek Thakur subsequently succumbed to his injuries, and his post-mortem examination was conducted by Dr S.P. Mandal (PW-16), who found that the cause of death was oedema of the brain due to head injuries. He issued the report (Ext.PW-16/A). ASI Dharam Singh investigated the matter. He prepared the site plan (Ext. PW-13/D) and took photographs of the spot (Ext. P-1 to P-4), whose negatives are Ext. P-5 to Ext. P-8. He seized the motorcycle, broken pieces of glass, registration number plate, etc., vide memo (Ext. PW-13/E). He also seized the utility vehicle bearing registration No. HP-14A-0525 vide memo (Ext. PW-5/A). Yoginder Kumar (PW-4) conducted the mechanical examination of the vehicles and found that they had no defect which could have led to the accident. He issued reports (Ext. PW-4/A and Ext. PW-4/B). Yogesh Sharma also succumbed to his injuries. Dr J.P. Kaushik (PW-7) conducted his post-

mortem examination and found that the cause of death was lung haemorrhage leading to shock and death. He issued the report (Ext. PW-7/A). 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, 338, 304A of the IPC and Section 187 of the MV Act, to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined 18 witnesses to prove its case. Dharmender Kumar (PW-1) and Anil Kumar (PW-3) were riding the motorcycle. Vinod Kumar (PW-2) witnessed the accident. Yoginder Kumar (PW-4) conducted the mechanical examination of the vehicles. Devender Singh (PW-5) is the owner of the vehicle. Pawan Kumar (PW-6) carried the injured to the hospital and also received the motorcycle on sapurdari. Dr J.P. Kaushik (PW-7) conducted the post-mortem examination of

Yogesh. Dr. Sandeep Jain (PW-8) went through the X-rays and issued the report. H.C. Ram Lal (PW-9) reached the spot after coming to know of the accident. Som Dutt (PW-10) and Kulwant Jeet Singh (PW-12) witnessed the recoveries. Constable Bhajan Lal (PW-11) and ASI Jagdev Chand (PW-17) proved the entries in the daily diary. Dharam Singh (PW-13) and ASI Karam Singh (PW-18) investigated the matter. Dr Raj Kumar Sharma (PW-14) conducted the medical examination of the injured. Ashok Kumar (PW-15) did not support the prosecution case. Dr S.P. Mandal (PW-16) conducted the post-mortem examination of Vivek Thakur.

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 stated that he was not driving the vehicle at the time of the accident and he was falsely implicated. He did not produce any evidence in his defence.

6. The learned Trial Court held that the statements of the witnesses contradicted each other on material aspects. The place of the accident was not established on record. The mere fact that the persons had sustained injuries or had died in the

accident is not sufficient to convict the accused. Therefore, the learned Trial Court acquitted the accused.

7. Being aggrieved by the judgment passed by the learned Trial Court, the State has filed the present appeal, asserting that the learned Trial Court had erred in rejecting the testimonies of the witnesses. Dharmender Kumar (PW-1), Vinod Kumar (PW-2), Anil Kumar (PW-3), and H.C. Ram Lal (PW-9) had categorically stated that the accident had occurred because of the negligence of the accused. Devender Singh (PW-5) proved that he had employed the accused as a driver, and it was established that the accused was driving the vehicle at the time of the accident. No mechanical defect was found in the vehicle. Minor contradictions were bound to occur with time and should not have been used to discard the prosecution case. Therefore, it was prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

8. I have heard Mr Jitender Sharma, learned Additional Advocate General, for the appellant/State, and Mr Parikshit Sharma, learned counsel, for the respondent/accused.

9. Mr Jitender Sharma, learned Additional Advocate General, for the Appellant/State, submitted that the statements of prosecution witnesses proved that the utility vehicle being driven by the accused had hit the motorcycle on the wrong side of the road, which was the proximate cause of the accident. The learned Trial Court had not adverted to this aspect. Therefore, he prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

10. Mr Parikshit Sharma, learned counsel for the respondent-accused, submitted that the site plan shows that the utility vehicle was being driven on the left side of the road, whereas the motorcycle was on the right side of the road. The statements of prosecution witnesses contradicted each other on material aspects, and the learned Trial Court had taken a reasonable view while acquitting the accused. This Court should not interfere with a reasonable view of the learned Trial Court while deciding an appeal against acquittal. Hence, he prayed that the present appeal be dismissed.

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

12. The present appeal has been filed against a judgment of acquittal. It was laid down by the Hon'ble Supreme Court in ***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 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 with unless it is totally perverse or wholly unsustainable."

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.

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 reappreciate 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.

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.

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.

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

14. The statement (Ext. PW-1/A) specifically mentioned that the informant Dharmender Kumar, Yogender, Vivek, and Anil were riding the motorcycle bearing registration No. HP-52A-1183 on 1.6.2007. Dharmender Kumar (PW-1) stated that he and Anil Kumar were walking on the road. Vivek and Yogender came to the spot on a motorcycle and started talking to them. A Bolero camper hit the motorcycle at a high speed on the wrong side of the road. Similarly, Anil Kumar (PW-3) stated that he was going towards Saproon on 1.6.2007, at about 5:15 PM. Vivek and Yogesh were riding the motorcycle, and they started talking to him. A jeep hit the motorcycle, and the motorcycle riders sustained injuries.

15. It is apparent from the testimonies of these witnesses that they have changed the prosecution version completely, because it was nobody's case that Dharmender and Anil were walking on the road. It was specifically stated that all four persons were riding the motorcycle. Therefore, the testimonies

of these witnesses regarding the accident were rightly rejected by the learned Trial Court.

16. Vinod Kumar (PW-2) stated that he was discharging duties at Police Station, Solan. A motorcycle came from Rajgarh. A Bolero came from the bypass and hit the motorcycle. The motorcyclists sustained injuries. The statement of this witness is also not as per the prosecution version. It was not the case of the prosecution that the motorcycle was coming from Rajgarh or that the Bolero was coming from the bypass. Rather, it was stated that the motorcycle was coming from Chambaghat and the Bolero was coming from Rajgarh. Thus, he has shifted the manner of the accident, and his testimony is also not reliable.

17. Pawan Kumar (PW-6) stated that he had received a call regarding the accident, and the motorcycle was handed over to him. He specifically stated in his cross-examination that he was not present on the spot at the time of the accident; therefore, he is not an eyewitness, and his testimony does not establish the prosecution version.

18. H.C. Ram Lal (PW-9) stated that a motorcycle was hit by a Bolero camper. The Bolero camper sped away towards

Chambaghat after the accident. He stated in his cross-examination that four persons were riding the motorcycle. The accident occurred towards Children's Park. He stated that the place of the accident was not visible because of the darkness, which shows that he had not witnessed the accident and his testimony regarding the details of the incident cannot be accepted.

19. The site plan (Ext. PW-13/D) shows the place of accident at point ‘B’, where the pieces of glass were lying. This place is towards the left side of a vehicle coming from Rajgarh, and towards the right side of a vehicle coming from Chambaghat. The learned Trial Court had rightly held that this site plan shows that the utility was on its left side, whereas the motorcycle had left its side and had gone towards the right side of the road. Thus, the proximate cause of the accident was driving the motorcycle towards the right side of the road, and not driving the utility towards the wrong side of the road, as was projected by the prosecution. Thus, the site plan also does not establish the prosecution version.

20. Therefore, the learned Trial Court had taken a reasonable view while acquitting the accused, and this Court will not interfere with a reasonable view of the learned Trial Court while deciding an appeal against acquittal, even if another view is possible.

21. No other point was urged.

22. In view of the above, the present appeal fails, and it is dismissed. Pending miscellaneous application(s), if any, also stand disposed of.

23. 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/accused is directed to furnish bail bonds in the sum of ₹25,000/- with one surety in the like amount to the satisfaction of the 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 respondent/accused on receipt of notice thereof, shall appear before the Hon'ble Supreme Court.

24. Records be returned to the learned Trial Court forthwith, along with a copy of the judgment.

(Rakesh Kainthla)
Judge

26th October, 2026
(Chander)