

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 240 of 2015

Reserved on: 23.4.2026

Date of Decision: 1.5.2026.

State of H.P.

...Appellant

Versus

Yashbir Singh

...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No.

For the Appellant : Mr Ajit Sharma, Deputy Advocate General.

For the Respondent : Mr Sparsh Bhushan, Advocate.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 13.10.2014, passed by the learned Sessions Judge, Kinnaur, Sessions Division at Rampur Bushehr, District Shimla, H.P. (learned Appellate Court), vide which the judgment of conviction and order of sentence dated 5.9.2011, passed by learned Judicial Magistrate First Class, Rampur Bushehr District Shimla, H.P. (learned Trial Court) were set aside. (*The parties*

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

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 Section 353 and 332 of the Indian Penal Code (IPC). It was asserted that the informant, Rakesh Kumar (PW1), was posted as a conductor in HRTC Rampur Depot. He was discharging his duties on a bus bearing registration No. HP-06A-7506, which was going from Rampur to Daran Ghati. Ghanshyam Singh (PW2) was driving the bus. The bus started from Daran Ghati at 6.30 p.m. on 20.8.2009 and reached Dobi at 7:30 p.m. The accused boarded the bus with a lit cigarette. The informant asked the accused for the ticket. The accused replied that he was an employee of HRTC. The informant demanded the identity card from the accused, and the accused replied that he had kept his identity card at Rampur. The informant asked the accused to buy a ticket. The accused got infuriated and enquired whether the informant was a Don of the area to ask for the ticket. The accused caught hold of the informant's neck and dragged him. The informant asked the driver to stop the bus.

The accused inflicted 3-4 blows on the informant's face. He also hit the informant with his head. The informant sustained multiple injuries. His shirt was blood-stained. Ghanshyam Singh (PW2) and Sansar Chand (PW5) tried to rescue the informant, but the accused gave them beatings. The other passengers intervened. The matter was reported to the police. The police recorded an entry (Ex.PW8/A) in the daily diary in the Police Station. SI Rattan Chand (PW8), HC Kamla Nand and Constable Ranjeet Singh went to the spot for the verification. The informant made a statement (Ex.PW1/A), which was sent to the Police Station, where FIR (Ex.PW8/B) was registered. An application (Ex.PW8/D) was filed for conducting the medical examination of the informant. Dr Padam Dev Sharma (PW7) examined the informant and found that he had sustained multiple injuries. Dr. Padam Dev Sharma (PW7) advised the X-ray, but no fracture was detected in the part X-rayed. Hence, the nature of the injury was stated to be simple, which could have been caused by means of fist blows. He issued the MLC (Ex.PW7/A). SI Rattan Chand went to the spot and prepared the site plan (Ex.PW8/E). The informant produced a blood-stained shirt (Ex. P1) which was put in a parcel, and the parcel was sealed

with seal 'R'. Seal impression (Ex. DA) was taken on a separate piece of cloth. The parcel was seized vide memo (Ex.PW1/B). ASI Rattan Singh took the photographs (Ex.C1 to C3). He filed an application (Ex.PW8/F) for obtaining the informant's appointment order. The appointment order (Ex.PW1/A/A) and copies of the duty registers (Ex.PW6/A and Ex.PW6/B) were taken into possession. Statements of witnesses were recorded as per the version, and after the completion of the investigation, the challan was prepared and presented before the learned Trial Court.

3. Learned Trial Court found sufficient reasons to summon the accused. When the accused appeared, he was charged with the commission of offences punishable under Sections 332 and 353 of the IPC, to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined eight witnesses to prove its case. Rakesh Kumar (PW1) is the informant. Ghanshyam Singh (PW2) and Sansar Chand (PW5) are the eyewitnesses. Anu Lacktoo (PW3) produced the record. Vidya Chand (PW4) was told about the incident. Sansar Chand (PW5) did not support the

prosecution's case. Rajinder Thakur (PW6) proved the duty record. Dr Padam Dev Sharma (PW7) examined the informant. SI Rattan Chand (PW8) investigated the matter.

5. The accused in his statement recorded under Section 313 of the Cr.PC admitted that he was travelling in the bus bearing registration No. HP-06A-7506 on 20.8.2009. He denied the rest of the prosecution's case. He stated that witnesses had deposed falsely against him, as they were interested. The accused did not produce any evidence in his defence.

6. Learned Trial Court held that the testimonies of the witnesses corroborated each other. The medical evidence also established that the informant had sustained injuries. The informant was discharging his official duties, and the accused had beaten the informant while discharging his official duties. Hence, the learned Trial Court convicted the accused of the commission of offences punishable under Sections 332 and 353 of the IPC and sentenced him to undergo imprisonment as under: -

Conviction	Sentence
Section 353 of IPC	To pay a fine of ₹2500 and, in default of payment of the fine, to

	undergo simple imprisonment for one month.
Section 332 of IPC	To pay a fine of ₹2500 and, in default of payment of the fine, to undergo simple imprisonment for one month.

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 Sessions Judge, Kinnaur, Sessions Division at Rampur Bushehr, District Shimla, H.P. (learned Appellate Court). The Appellate Court held that there were various discrepancies in the prosecution's case. The genesis of the incident was not fully established. The passengers travelling in the bus were not examined. Sansar Chand was also declared hostile. The driver of the bus had not seen the actual incident. Learned Trial Court erred in convicting and sentencing the accused. Hence, the learned Appellate Court allowed the appeal and acquitted the accused of the commission of offences punishable under Sections 353 and 332 of the IPC.

8. Being aggrieved by the judgment passed by the learned Appellate Court, the State has filed the present appeal asserting that the learned Appellate Court erred in acquitting the

accused. The Appellate Court failed to appreciate the evidence from a proper perspective. The prosecution had proved its case beyond a reasonable doubt. The informant's testimony was corroborated by Ghanshyam Singh, who was driving the bus. The prosecution's case could not have been doubted merely because one witness had not supported the prosecution's case. The learned Appellate Court erred in relying upon minor contradictions in the statements of the prosecution witnesses, as the contradictions were bound to come with time. Hence, it was prayed that the present appeal be allowed and the judgment passed by the learned Appellate Court be set aside.

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

10. Mr Ajit Sharma, learned Deputy Advocate General for the appellant/State, submitted that the informant Rakesh Kumar had supported the prosecution version. His testimony was duly corroborated by the medical evidence and the statements of Ghanshyam Singh and Sansar Chand. Learned Appellate Court acquitted the accused due to minor

discrepancies, which are bound to come with the passage of time. Therefore, he prayed that the present appeal be allowed and the judgment passed by the learned Appellate Court be set aside.

11. Mr. Sparsh Bhushan, learned counsel for the respondent/accused, submitted that the learned Appellate Court had concluded that there were major contradictions in the statements of the prosecution's witnesses, which made them highly unreliable. The incident had taken place in a bus, and no passenger was examined by the police. The Learned Appellate Court was justified in acquitting the accused. Hence, he prayed that the present appeal be dismissed.

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

13. The present appeal has been filed against a judgment of acquittal. It was laid down by the Hon'ble Supreme Court in *Surendra Singh v. State of Uttarakhand*, (2025) 5 SCC 433: 2025 SCC OnLine SC 176 that the Court can interfere with a judgment of acquittal if it is patently perverse, is based on misreading of

evidence, omission to consider the material evidence and no reasonable person could have recorded the acquittal based on the evidence led before the learned Trial Court. It was observed at page 438:

“24. It could thus be seen that it is a settled legal position that the interference with the finding of acquittal recorded by the learned trial Judge would be warranted by the High Court only if the judgment of acquittal suffers from patent perversity; that the same is based on a misreading/omission to consider material evidence on record; and that no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

14. This position was reiterated in *State of M.P. v. Ramveer Singh*, 2025 SCC OnLine SC 1743, wherein it was observed:

21. We may note that the present appeal is one against acquittal. Law is well-settled by a plethora of judgments of this Court that, in an appeal against acquittal, unless the finding of acquittal is perverse on the face of the record and the only possible view based on the evidence is consistent with the guilt of the accused, only in such an event, should the appellate Court interfere with a judgment of acquittal. Where two views are possible, i.e., one consistent with the acquittal and the other holding the accused guilty, the appellate Court should refuse to interfere with the judgment of acquittal. Reference in this regard may be made to the judgments of this Court in the cases of *Babu Sahebagouda Rudragoudarv. State of Karnataka* (2024) 8 SCC 149; *H.D. Sundara v. State of Karnataka* (2023) 9 SCC 581 and *Rajesh Prasad v. State of Bihar* (2022) 3 SCC 471.

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

16. It was specifically asserted in the FIR that the accused boarded the bus with a lighted cigarette. Rakesh Kumar (PW1) stated in his examination-in-chief that the accused boarded the bus and lit a cigarette inside the bus. Ghanshyam Singh (PW2) stated in his cross-examination that he had not seen the accused smoking. This discrepancy makes the genesis of the incident suspect.

17. Ghanshyam Singh (PW2) stated that the bus reached Dobi at 7.30 a.m. The informant quarrelled, but he was not aware of the reason for the quarrel. The accused had not said anything to the informant. The accused had inflicted 4-5 blows to the informant. When he stopped the bus, the accused had left. Two people had rescued the informant from the accused. The statement made by this witness that the accused had left at the time of stopping the bus would make it difficult to believe that he had witnessed the incident.

18. Sansar Chand (PW5) stated that he was going from Rampur to Shalaghat. He was not aware of the registration

number of the bus or the name of the driver who was driving the bus. He was permitted to be cross-examined. He admitted that he was travelling in the bus bearing registration No. HP-06A-7576. He was not aware that Rakesh Kumar was the conductor on the bus. He denied that the accused had boarded the bus while smoking. He denied the previous statement recorded by the police.

19. The testimony of this witness does not support the prosecution's case. He was cited as an eyewitness who had rescued the informant from the accused. However, he did not state any such fact; therefore, the learned Appellate Court had rightly held that his testimony does not support the prosecution's version.

20. The prosecution has relied upon the recovery of the T-shirt with the blood stains. Informant Rakesh Kumar and Ghanshyam Singh (PW2) admitted in their cross-examination that uniforms were issued to them and they were required to wear the uniform while discharging their duties. The police seized the T-shirt, and no explanation has been provided as to why the informant was wearing the T-shirt on the date of the

incident when he was mandatorily required to wear the uniform while discharging his duties. Therefore, not much advantage can be derived from the recovery of the T-shirt.

21. The informant stated that the accused had given him 4-5 fist blows and hit him with his (accused's) head. Dr Padam Dev Sharma (PW7) only found an abrasion on the left side cheek and tenderness. Therefore, only one injury was noticed by the Medical Officer. It is difficult to believe that the victim would have sustained only one injury when 4-5 fist blows were inflicted upon him, and another blow was given by means of the head. Thus, the medical evidence does not support the informant's version.

22. Therefore, there were various discrepancies in the prosecution's case, which made the prosecution's case highly suspect. Learned Appellate Court had taken a reasonable view while deciding the appeal, and this Court will not interfere with the reasonable view of the learned Appellate Court, even if another view is possible.

23. No other point was urged.

24. Consequently, the present appeal fails, and it is dismissed. Pending miscellaneous application(s), if any, also stand disposed of.

25. 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.

26. Records be sent back to the learned Courts below forthwith, along with a copy of the judgment.

(Rakesh Kainthla)
Judge

1st June, 2026
(Chander)