



2025:HHC:39622

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IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No. 166 of 2015

Reserved on: 14.10.2025

Date of Decision: 24.11.2025.

Dharam Pal

...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 Inder Sharma, Advocate.

For the Respondent/State : Mr Prashant Sen, Deputy
Advocate General.

Rakesh Kainthla, Judge

The present revision is directed against the judgment dated 08.05.2015, passed by learned Additional Sessions Judge-I, Mandi, District Mandi, H.P. (learned Appellate Court), vide which the judgment of conviction and order of sentence dated 25.10.2024 passed by learned Judicial Magistrate First Class, Karsog, District Mandi, H.P. (learned Trial Court) were partly

upheld. (*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 revision are that the police presented a challan before the learned Trial Court for the commission of offences punishable under Sections 279, 337 and 338 of the Indian Penal Code (IPC). It was stated that the informant, Narender Kumar (PW1), was standing outside his shop. Hem Kund (PW7) was standing on the roadside near Parapet. A tempo bearing registration No. HP30-2276 came from Karsog on September 13, 2013, at approximately 2:30 PM. The driver of the tempo lost control and hit Hem Kund (PW7). The tempo crushed the left foot of Hem Kund (PW7). Dharampal (accused) was driving the tempo at the time of the accident. The accident occurred due to the negligence of the accused, Dharampal. The matter was reported to the police. An entry (Ext.PW9/A) was recorded in the Police Station. HC Ranjeet Singh (PW3) investigated the matter. He went to the spot. He recorded statement (Ext.PW1/A) of the informant Narender (PW1) and sent to the Police Station where FIR (Ext.PW3/B) was registered. He prepared the site plan (Ext.PW3/D). He seized the tempo vide memo (Ext.PW1/B) along



with documents and the key. He took the photographs (Ext.P1 to Ext.P5) whose negatives are Ext.P6 and Ext.P7. An application (Ext.PW3/K) was filed for the medical examination of the injured/victim. Ghanshyam Dass (PW4) conducted the medical examination of the victim Hem Kund (PW7) and found that he had sustained grievous injuries. He issued the MLC (Ext.PW4/B). Keshva Nand (PW10) mechanically examined the tempo and found that there was no mechanical defect in it that could have led to the accident. He issued the report (Ext.PW10/A). The 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, the learned Trial Court put notice of accusation to the accused for the commission of offences punishable under Sections 279, 337 and 338 of the Indian Penal Code, to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined 10 witnesses to prove its case. Narender Kumar (PW1) is the informant/eye witness. Paras



Ram (PW2) and Budhi Singh (PW6) were travelling in the tempo. Ranjeet Singh (PW3) conducted the initial investigation. Ghanshyam Dass (PW4) medically examined the victim. ASI Sohan Lal (PW5) and ASI Dilu Ram (PW8) investigated the matter. Hem Kund (PW7) is the victim. Thakur Dass (PW9) proved the entry in the daily diary. Keshva Nand (PW10) mechanically examined the vehicle.

5. The accused, in his statement recorded under Section 313 of Cr.P.C., admitted that he was driving the tempo bearing registration No. HP30-2276, the police had prepared the site plan, and the tempo had no mechanical defect. He denied his negligence. He stated that witnesses deposed falsely as they resided in the vicinity. He did not lead any evidence in defence.

6. Learned Trial Court held that the accused drove the vehicle towards the roadside and hit the victim, who was sitting on the parapet. Paras Ram (PW2) admitted that the accused had seen the victim at a distance of 10-12 feet. However, the accused did not stop his vehicle and crushed the foot of the victim. The accused was supposed to take care while parking the vehicle, but he failed to do so. Therefore, the learned Trial Court convicted



the accused of the commission of offences punishable under Sections 279, 337 and 338 of the IPC and sentenced him as under:

Offence	Imprisonment	Fine	In default of payment of fine
279 IPC	6 months S.I.	₹1000/-	S.I. for one month
337 IPC	4 months S.I.	₹500/-	S.I. for one month
338 IPC	1-year S.I.	₹1000/-	S.I. for one month

It was ordered that all the substantive sentences of imprisonment shall run currently.

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), Mandi (learned Appellate Court). Learned Appellate Court concurred with the findings recorded by the learned Trial Court that the accused had failed to take care while driving the vehicle. He had seen the victim from a distance of about 12 feet and was supposed to stop the tempo at some distance from the victim. The accused had driven the vehicle towards the extreme right side of the road on the kachha portion of the road. He failed to provide any explanation for taking the tempo towards the right side of the road. The learned Trial Court had rightly convicted the accused of the commission of offences punishable under



Sections 279, 338 of the IPC. The victim had not suffered any simple injury and could not have been convicted of the commission of an offence punishable under Section 337 of IPC. Hence, he was acquitted of the commission of an offence punishable under Section 337 of the IPC, but his conviction and sentence were maintained for the commission of offences punishable under Sections 279 and 338 of the IPC.

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 evidence on record. The prosecution witnesses contradicted each other on material aspects, and their testimonies could not have been relied upon. The independent witnesses did not support the prosecution's case. Hem Kund (PW7) did not identify the driver of the vehicle. Paras Ram (PW2) also stated that Hem Kund (PW7) ran towards the vehicle. Thereafter, he sat over the parapet and put his leg towards the vehicle. This evidence was ignored by the learned Courts below. 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 Inder Sharma, learned counsel for the petitioner/accused and Mr Prashant Sen, learned Deputy Advocate General, for the respondent-State.

10. Mr Inder Sharma, learned counsel for the petitioner/accused, submitted that the learned Courts below erred in appreciating the evidence on record. Paras Ram (PW2) stated that the victim ran towards the vehicle and put his leg ahead of the vehicle. This was an alternative version, and when two versions appear on the record, the version in favour of the accused has to be preferred. The learned Courts below ignored the statement of Paras Ram (PW2) without assigning any reason. 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 Prashant Sen, learned Deputy Advocate General for the respondent/State, submitted that the accused had driven the vehicle towards the right side of the road without any justification. The proximate cause of the accident was driving the vehicle towards the right side of the road. This Court should not interfere with the concurrent findings of fact recorded by



the learned Courts below. Therefore, 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 *Malkeet Singh Gill v. State of Chhattisgarh*, (2022) 8 SCC 204: (2022) 3 SCC (Cri) 348: 2022 SCC OnLine SC 786 that a revisional court is not an appellate court and it can only rectify the patent defect, errors of jurisdiction or the law. It was observed at page 207: -

“10. Before advertng to the merits of the contentions, at the outset, it is apt to mention that there are concurrent findings of conviction arrived at by two courts after a detailed appreciation of the material and evidence brought on record. The High Court in criminal revision against conviction is not supposed to exercise the jurisdiction like the appellate court, and the scope of interference in revision is extremely narrow. Section 397 of the Criminal Procedure Code (in short “CrPC”) vests jurisdiction to satisfy 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. The object of the provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error which is to be determined on the merits of individual cases. It is also well settled that while considering the same, the Revisional Court does not dwell at length upon



the facts and evidence of the case to reverse those findings.

14. This position was reiterated in *State of Gujarat v. Dilipsinh Kishorsinh Rao*, (2023) 17 SCC 688: 2023 SCC OnLine SC 1294, wherein it was observed at page 695:

14. The power and jurisdiction of the Higher Court under Section 397 CrPC, which vests the court with the power to call for and examine records of an inferior court, is for the purposes of satisfying itself as to the legality and regularities of any proceeding or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law or the perversity which has crept in such proceedings.

15. It would be apposite to refer to the judgment of this Court in *Amit Kapoor v. Ramesh Chander* [*Amit Kapoor v. Ramesh Chander*, (2012) 9 SCC 460: (2012) 4 SCC (Civ) 687: (2013) 1 SCC (Cri) 986], where scope of Section 397 has been considered and succinctly explained as under: (SCC p. 475, paras 12-13)

“12. Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error, and it may not be appropriate for the court to scrutinise the orders, which, upon the face of it, bear a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored, or judicial discretion is



exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.

13. Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order. The Court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injustice ex facie. Where the Court is dealing with the question as to whether the charge has been framed properly and in accordance with law in a given case, it may be reluctant to interfere in the exercise of its revisional jurisdiction unless the case substantially falls within the categories aforesaid. Even the framing of the charge is a much-advanced stage in the proceedings under CrPC.”

15. It was held in *Kishan Rao v. Shankargouda*, (2018) 8 SCC 165: (2018) 3 SCC (Cri) 544: (2018) 4 SCC (Civ) 37: 2018 SCC OnLine SC 651 that it is impermissible for the High Court to reappreciate the evidence and come to its conclusions in the absence of any perversity. It was observed at page 169:

“12. This Court has time and again examined the scope of Sections 397/401 CrPC and the grounds for exercising the revisional jurisdiction by the High Court. 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: (SCC pp. 454-55, para 5)

“5. ... In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings to satisfy 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 reappreciate the evidence and come to its 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 concluding that the High Court exceeded its jurisdiction in interfering with the conviction of the respondent by reappreciating the oral evidence. ...”

13. Another judgment which has also been referred to and relied on by the High Court is the judgment of this Court in *Sanjaysinh Ramrao Chavan v. Dattatray Gulabrao Phalke*, (2015) 3 SCC 123: (2015) 2 SCC (Cri) 19. This Court held that the High Court, in the exercise of revisional jurisdiction, shall not interfere with the order of the Magistrate unless it is perverse or wholly unreasonable or there is non-consideration of any relevant material, the order cannot be set aside merely on the ground that another view is possible. The following has been laid down in para 14: (SCC p. 135)

“14. ... Unless the order passed by the Magistrate is perverse or the view taken by the court is wholly unreasonable or there is non-consideration of any relevant material or there is palpable misreading of records, the Revisional Court is not justified in setting aside the order, merely because another view is possible. The Revisional Court is not meant to act as an appellate court. The whole purpose of the revisional



jurisdiction is to preserve the power in the court to do justice in accordance with the principles of criminal jurisprudence. The revisional power of the court under Sections 397 to 401 CrPC is not to be equated with that of an appeal. Unless the finding of the court, whose decision is sought to be revised, is shown to be perverse or untenable in law or is grossly erroneous or glaringly unreasonable or where the decision is based on no material or where the material facts are wholly ignored or where the judicial discretion is exercised arbitrarily or capriciously, the courts may not interfere with the decision in exercise of their revisional jurisdiction.”

14. In the above case, also a conviction of the accused was recorded, and the High Court set aside [*Dattatray Gulabrao Phalke v. Sanjaysinh Ramrao Chavan*, 2013 SCC OnLine Bom 1753] the order of conviction by substituting its view. This Court set aside the High Court's order, holding that the High Court exceeded its jurisdiction in substituting its views, and that too without any legal basis.

16. This position was reiterated in *Bir Singh v. Mukesh Kumar*, (2019) 4 SCC 197: (2019) 2 SCC (Cri) 40: (2019) 2 SCC (Civ) 309: 2019 SCC OnLine SC 13, wherein it was observed at page 205:

“16. It is well settled that in the exercise of revisional jurisdiction under Section 482 of the Criminal Procedure Code, the High Court does not, in the absence of perversity, upset concurrent factual findings. It is not for the Revisional Court to re-analyse and re-interpret the evidence on record.

17. As held by this Court in *Southern Sales & Services v. Sauermilch Design and Handels GmbH* [*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. The answer to the first question is, therefore, in the negative.”

17. A similar view was taken in *Sanjabij Tari v. Kishore S.*

Borcar, 2025 SCC OnLine SC 2069, wherein it was observed:

“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 [See: *Bir Singh* (supra)]. This Court is of the view that it is not for the Revisional Court to re-analyse 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.

18. The present revision has to be decided as per the parameters laid down by the Hon’ble Supreme Court.

19. The accused admitted in his statement recorded under Section 313 of Cr.P.C. that he was driving the tempo bearing registration No. HP30-2276 on 13.09.2013 at about 2:30 PM. Thus, the accused, being the driver of the tempo, is not in dispute.



20. Budhi Singh (PW6) stated that he was travelling in the tempo being driven by the accused. When they reached Mahota at about 2-2:30 pm, the accused drove the tempo towards the right side of the road to park it. The tempo crushed the foot of the person standing on the road. There was sufficient space, and the accident could have been avoided by not taking it to the right side of the road. He admitted in his cross-examination that the tempo was being driven slowly. He admitted that the tempo was being parked on a slope. He denied that the tempo slipped due to the slope. He admitted that the driver drove the vehicle carefully and there was no negligence on the part of the accused. He volunteered to say that the negligence was evident by crushing the foot of the person.

21. The testimony of this witness clearly establishes that the accused was driving the vehicle. His testimony also shows that the vehicle was taken towards the right side of the road to park it, and the foot of Him Kund (PW7) was crushed under the tyre of the tempo. Nothing was suggested to him in his cross-examination that he had any motive to depose against the accused. Thus, learned Courts below had rightly relied upon his testimony.



22. The victim, Hem Kund (PW7), stated that he was sitting on a parapet on the roadside. A tempo crushed his foot under the tyre. His leg was amputated because of the accident. The accused was driving the tempo at the time of the accident. He denied that he was running towards a vehicle. He admitted that the tempo was parked, and it suddenly moved towards him. He denied that there was no negligence on the part of the accused. He admitted that he had not seen the driver, and the driver was shown to him in the Court by Budhi Singh (PW6).

23. A heavy reliance was placed upon his statement in the cross-examination that the tempo had moved after it was parked, to submit that the tempo had moved after it was parked, and there is no negligence of the accused. This submission will not help the accused. The Central Government has framed the Rules of the Road Regulations, 1989, in exercise of the powers conferred under Section 115 of the Motor Vehicle Act. Rule 15(1) provides that the vehicle shall not be parked in such a manner as is likely to cause danger, obstruction or undue inconvenience to other road users. Rule 15 (2) (ix) provides that a driver of a Motor Vehicle shall not park the vehicle on the wrong side of the road. Thus, the driver of the vehicle is bound to ensure that



parking of the vehicle does not lead to any danger to other users of the road, and the vehicle is not parked on the wrong side of the road. In the present case, the parking of the vehicle towards the right side of the road (wrong side of the truck) led to danger to Hem Kund (PW7), who was sitting on the parapet. Therefore, the fact that the vehicle had moved after the parking would not make any difference. The proximate cause of the accident was not the movement of the vehicle but parking it on the wrong side of the road where the victim was sitting.

24. The informant, Narender Kumar, stated that Hem Kund (PW7) was standing near the parapet. A tempo came from Karsog and hit Hem Kund (PW7) towards the wrong side. The accused was driving the vehicle at the time of the accident. He admitted in his cross-examination that his shop is located at a distance of 100 meters from the place of the accident and that he was standing outside the shop. He could not say that Hem Kund (PW7) suddenly ran towards the vehicle. He admitted that there was a gorge at the place of the accident. He volunteered to say that this is the reason why Hem Kund (PW7) could not save himself by jumping off the road. He admitted that the accused was parking the vehicle at the time of the accident.



25. There is nothing in the cross-examination of this witness to show that he was making a false statement. Thus, learned Courts below had rightly accepted the testimony of this witness.

26. Paras Ram (PW2) stated that he was travelling with the accused in his tempo bearing registration No. HP30-2276. One boy ran towards the vehicle. He sat on the parapet and pushed his leg towards the vehicle. The boy was visible from a distance of 10-12 feet. The accused tried to apply the brake but did not succeed. The accused was parking the vehicle, and the road had a slope. He stated in his cross-examination that the vehicle was loaded. He could not say anything about the defect in the brakes.

27. It was submitted that the testimony of this witness made the prosecution's case doubtful. He specifically stated that the boy ran towards the vehicle, which led to the accident. This submission is not acceptable. The statement of this witness shows that the boy ran towards the vehicle. He sat on the parapet and put his leg towards the tempo. He has not explained how a person could have run towards the tempo and also sat on



the parapet and put his leg towards the tempo. Either the boy would be running, or he would be sitting on the parapet. Further, he admitted that the boy was visible from a distance of 10-12 feet; thus, the accused could have easily stopped the tempo. He stated that the accused tried to apply the brakes, but could not do so. This is contrary to the report of Keshva Nand (PW10), who mechanically examined the vehicle and did not find any defect in the vehicle that could have led to the accident.

28. Keshava Nand (PW10) admitted in his cross-examination that a loaded vehicle stopped on a slope would move 1½ feet, and the brake would not function in these circumstances. It was submitted that the testimony of this witness shows that the accident could have occurred due to the movement of the vehicle, which is not attributable to the driver. This submission will not help the accused. If it is a common fact that the vehicle moves 1½ feet after it is stopped on a slope, the accused should have taken care of this fact while parking the vehicle and should have parked it at a distance of more than 2 feet from where the victim was present. The failure to do so will constitute negligence on the part of the accused. Further, Paras Ram (PW2) did not say that the vehicle had moved after it was



parked, but that the accused had tried to apply the brakes after seeing the victim from a distance of 10-12 feet, and the brakes were not functioning. The testimony of Paras Ram (PW2) shows that the accused could have stopped the vehicle at a distance of 10-12 feet from the victim. Had the accused done so, the accident would not have occurred.

29. The site plan (Ext.PW3/D) mentions the place of the accident at point 'X'. The metalled portion of the road is shown to be 10½ feet. The unmetalled portion is five feet on one side and 11 feet on the other side. The tempo is shown towards the unmetalled portion of the road, and the slipper of the victim was shown dropped beneath the front tyre. Both the front tyres were on the unmetalled portion of the road, and one rear tyre was on the metalled portion of the road. 1½ feet of space was left towards the right side of the front tyre.

30. The site plan shows that the vehicle was coming from Karsog towards Tatapani and was driven towards the unmetalled portion of the road towards the extreme right side, leaving only 1½ feet of space towards the right side. The photographs (Ext.P1, Ext.P2, Ext.P5 and Ext.P6) show the tyres



on the unmetalled portion of the road, leaving the metalled portion towards its left side. The slipper is seen trapped beneath the front tyre of the vehicle, clearly suggesting that the position of the vehicle had not changed after the accident. Therefore, the site plan and the photographs corroborate the prosecution's version that the tempo was driven towards the extreme right side of the road.

31. 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.”



32. 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 blood stain marks and a V-shape slipper of 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.”

33. 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 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 need a genius to



conclude that the motorcycle was on the extreme right side of the road and therefore on the wrong side.”

34. Thus, the accused had breached the Rules of the Road Regulations, which led to the accident, and the learned Courts below had rightly held him guilty of the commission of an offence punishable under Section 279 of the IPC.

35. Dr Ghanshyam Dass (PW4) stated that he had medically examined the victim and found grievous injuries which could have been caused by the running of the tyre over the leg. He stated in his cross-examination that the injury could have been caused by a big stone falling on the leg. This is an alternative hypothesis, which will not make the prosecution's case suspect. Nobody testified in the present case that any stone had crushed the victim's leg. Therefore, the statement of the Medical Officer in the cross-examination is not sufficient to doubt the prosecution's case. His statement in the examination-in-chief is corroborated by the statements of the witnesses. Hence, it is duly proved on record that the victim had sustained grievous injuries due to the negligence of the accused, and the learned Courts below had rightly convicted the accused of the



commission of an offence punishable under Section 338 of the IPC.

36. Learned Trial Court had sentenced the accused to undergo six months imprisonment for the commission of an offence punishable under Section 279 of IPC and one year imprisonment for the commission of an offence punishable under Section 338 of IPC. Considering the fact that the grievous injury was caused to the victim and his leg was amputated, the sentence of one year for the commission of an offence punishable under Section 338 of the IPC cannot be said to be excessive, requiring any interference from the Court. It was laid down by the Hon'ble Supreme Court in *Dalbir Singh Versus State of Haryana* (2000) 5 SCC 82 that a deterrent sentence is to be awarded to a person convicted of rash or negligent driving. 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 the Indian highways are among the top killers of the country", the saturation of accidents was not even



half of what it is today. So V. R. Krishna Iyer, J., has suggested in the said decision thus :

"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."

12. In *State of Karnataka v. Krishna alias Raju (1987) 1 SCC 538* this Court did not allow a sentence of fine, imposed on 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.

13. Bearing in mind the galloping trend in road accidents in India and the devastating consequences of visiting 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 locomotion. 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.”

37. A similar view was taken 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].

38. Similarly, the judgment in *State of Punjab v. Saurabh Bakshi*, (2015) 5 SCC 182: (2015) 2 SCC (Cri) 751: 2015 SCC OnLine SC 278, wherein it was observed at page 196:

“25. Before parting with the case, we are compelled to observe that India has a disreputable record of road accidents. There is a nonchalant attitude among the drivers. They feel that they are the “Emperors of all they survey”. Drunkenness contributes to careless driving, where other people become their prey. The poor feel that their lives are not safe, the pedestrians think of uncertainty, and the civilised persons drive in constant fear, but are still apprehensive about the obnoxious



attitude of the people who project themselves as “larger than life”. In such circumstances, we are bound to observe that the lawmakers should scrutinise, relook and revisit the sentencing policy in Section 304-A IPC. We say so with immense anguish.”

39. No other point was urged.

40. Therefore, the judgments and order passed by the learned Courts below are sustainable and no interference was required with them.

41. Consequently, the present petition fails, and it is dismissed. Pending applications, if any, also stand disposed of.

42. A copy of this judgment, along with the records of the learned Trial Court, be sent back forthwith.

(Rakesh Kainthla)
Judge

24th November, 2025
(Nikita)