

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****Cr. Appeal No.147 of 2013****Reserved on:14.11.2025****Decided on: 28.11.2025**

State of Himachal Pradesh**..... Appellant****Versus****Sarwan Kumar****.... Respondent**

Coram**The Hon'ble Mr Justice Rakesh Kainthla, Judge.*****Whether approved for reporting?¹No*****For the Appellant : Mr. Lokender Kutlehria, Additional
/State Advocate General.****For the Respondent : Mr. Dinesh Thakur, Advocate.**

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 14.08.2012, passed by learned Judicial Magistrate First Class, Court No.1, Dehra, District Kangra, 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 and 337 of Indian Penal Code



(hereinafter referred to as IPC). *(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 against the accused before the learned Trial Court for the commission of offences punishable under Sections 279 and 337 of the IPC. It was asserted that the informant, Barkat Ali (since deceased), was removing the grass from the drain adjacent to the road on 05.12.2010. A motorcycle bearing registration No. HP-36A-5408 came from Rani Taal at a high speed and hit the informant at 4:30 PM. The informant fell. Alafdeen (PW5) picked up the informant and carried him to CHC Jawalamukhi. The accused, Sarwan Kumar, was driving the motorcycle. The accident occurred due to his negligence and the high speed of the motorcycle. The matter was reported to the police, and an entry (Ext.PW1/A) was recorded. ASI Kuldeep Kumar (PW1) and HHC Madan Lal were sent to verify the correctness of the information. ASI Kuldeep Kumar (PW1) filed an application (Ext.PW1/B) for obtaining the opinion of the Medical Officer regarding the fitness of the injured to make the statement. The Medical Officer certified that the injured was fit to make the



statement. ASI Kuldeep recorded the statement of the informant (Ext.PW1/A) and sent it to the Police Station, where FIR (Ext.PW1/D) was registered. ASI Ashok Kumar (PW4) investigated the matter. He visited the spot and prepared the site plan (Ext.PW4/A). He took the photograph of the spot with the help of his mobile phone (Ext.P6). He seized the motorcycle bearing registration No. HP-36A-5408 along with documents vide memo (Ext.PW4/B). The informant died during the investigation. Inquest on the dead body (Ext.PW4/P) was conducted. The postmortem examination of the informant was conducted, and a report (Ext.PW4/H) was issued. The viscera were sent to SFSL Junga, but no poison/alcohol could be detected in them. As per the report of the Medical Officer, the cause of death could not be ascertained; however, the possibility of natural death could not be ruled out. The mechanical examination of the motorcycle was conducted, and no defect was found in it that could have led to the accident. Report (Ext.PW4/M) was issued. The statements of remaining 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. 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 337 of the IPC, to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined five witnesses to prove its case. ASI Kuldeep Kumar (PW1) recorded the statement of the informant. Veer Deen (PW2) is an eyewitness, but he did not support the prosecution's case. Dharam Pal (PW3) took the photographs of the motorcycle and the dead body. ASI Ashok (PW4) investigated the matter. Alafdeen (PW5) is an eyewitness.

5. The accused, in his statement recorded under Section 313 of Cr.P.C., admitted that he was driving the motorcycle bearing registration No. HP-36A-5408 on 05.12.2010 at about 4:30. He stated that Barkat Ali suddenly appeared on the road with the grass and hit the motorcycle. Barkat Ali had sustained injuries in the accident. A false case has been made against the accused. The accused did not produce any evidence in defence.



6. Learned Trial Court held that there was a discrepancy in the motorcycle number. Veer Deen (PW2) did not support the prosecution's case. The statement of Alafdeen (PW5) was not satisfactory. ASI Ashok Kumar (PW4) did not notice any skid marks, and there was no evidence of the high speed of the motorcycle. The possibility that the informant suddenly appeared before the motorcycle could not be ruled out, and the accused could not be held negligent in these circumstances. Consequently, the accused was acquitted.

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 erred in acquitting the accused. The statement of Alafdeen (PW5) was not properly appreciated. Learned Trial Court erred in holding that there was a discrepancy in the registration number of the motorcycle involved in the accident. The defence version that the informant had suddenly appeared before the motorcycle was not probablized by any evidence, and the learned Trial Court erred in accepting it. 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 Lokender Kutlehria, learned Additional Advocate General for the appellant/State and Mr Dinesh Thakur, learned counsel for the respondent/accused.

9. Mr Lokender Kutlehria, learned Additional Advocate General for the appellant/State, submitted that the learned Trial Court erred in acquitting the accused. The accused admitted in his statement recorded under Section 313 of Cr.P.C. that he was driving the motorcycle and the accident occurred with his motorcycle. Hence, the discrepancy in the registration number of the motorcycle was not material. The defence version that the informant suddenly appeared before the motorcycle was not proved on record. Statement of Alafdeen (PW5) proved that the motorcycle had hit the informant on the roadside which proved the negligence of the accused. Hence, he prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

10. Mr Dinesh Thakur, learned counsel for the respondent/accused, submitted that the statement of Alafdeen (PW5) was not satisfactory and his testimony was rightly rejected by the learned Trial Court. The view taken by the learned Trial Court was a reasonable view, and this Court should



not interfere with the reasonable view of the learned Trial Court while deciding an appeal against appeal. 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 *Surendra Singh v. State of Uttarakhand*, 2025 SCC OnLine SC 176: (2025) 5 SCC 433 that the Court can interfere with a judgment of acquittal if it is patently perverse, is based on misreading/omission to consider the material evidence and reached at a conclusion which no reasonable person could have reached. It was observed at page 440:

“11. Recently, in the case of *Babu Sahebagouda Rudragoudar v. State of Karnataka* 2024 SCC OnLine SC 4035, a Bench of this Court to which one of us was a Member (B.R. Gavai, J.) had an occasion to consider the legal position with regard to the scope of interference in an appeal against acquittal. It was observed thus:

“38. First of all, we would like to reiterate the principles laid down by this Court governing the scope of interference by the High Court in an appeal filed by the State for challenging the acquittal of the accused recorded by the trial court.

39. This Court in *Rajesh Prasad v. State of Bihar*, (2022) 3 SCC 471: (2022) 2 SCC (Cri) 31 encapsulated the legal



position covering the field after considering various earlier judgments and held as below: (SCC pp. 482-83, para 29)

“29. After referring to a catena of judgments, this Court culled out the following general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal in the following words: (*Chandrappa case [Chandrappa v. State of Karnataka, (2007) 4 SCC 415: (2007) 2 SCC (Cri) 325]*, SCC p. 432, para 42)

‘42. From the above decisions, in our considered view, the following general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.

(2) The Criminal Procedure Code, 1973, puts no limitation, restriction or condition on the exercise of such power and an appellate court, on the evidence before it, may reach its own conclusion, both on questions of fact and law.

(3) Various expressions, such as “substantial and compelling reasons”, “good and sufficient grounds”, “very strong circumstances”, “distorted conclusions”, “glaring mistakes”, etc., are not intended to curtail the extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of “flourishes of language” to emphasise the reluctance of an appellate court to interfere with an acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.



(4) An appellate court, however, must bear in mind that in the case of acquittal, there is a double presumption in favour of the accused. *Firstly*, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. *Secondly*, the accused, having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.”

40. Further, in *H.D. Sundara v. State of Karnataka*, (2023) 9 SCC 581: (2023) 3 SCC (Cri) 748, this Court summarised the principles governing the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378CrPC as follows: (SCC p. 584, para 8)

8. ... 8.1. The acquittal of the accused further strengthens the presumption of innocence.

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to reappraise the oral and documentary evidence.

8.3. The appellate court, while deciding an appeal against acquittal, after reappraising the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record.

8.4. If the view taken is a possible view, the appellate court cannot overturn the order of



acquittal on the ground that another view was also possible; and

8.5. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible.”

41. Thus, it is beyond the pale of doubt that the scope of interference by an appellate court for reversing the judgment of acquittal recorded by the trial court in favour of the accused has to be exercised within the four corners of the following principles:

41.1. That the judgment of acquittal suffers from patent perversity.

41.2. That the same is based on a misreading/omission to consider material evidence on record; and

41.3. 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.”

12. 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.”

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



14. The accused admitted in his statement recorded under Section 313 Cr.P.C. that he was driving a motorcycle bearing registration No. HP-36A-5408 on 05.12.2010 at about 4:30 PM. He stated that the accident had occurred when Barkat Ali suddenly appeared on the road with the grass and hit the motorcycle. He admitted that Barkat Ali had sustained injuries in the accident. Thus, a major part of the prosecution's case was admitted by the accused in his statement recorded under Section 313 of Cr.P.C. It was laid down by the Hon'ble Supreme Court in *State of Maharashtra v. Sukhdev Singh*, (1992) 3 SCC 700: 1992 SCC (Cri) 705: 1992 SCC OnLine SC 421 that the Courts can rely upon the statement of the accused made under Section 313 Cr.P.C. It was observed at page 742:

“51. That brings us to the question whether such a statement recorded under Section 313 of the Code can constitute the sole basis for conviction. Since no oath is administered to the accused, the statements made by the accused will not be evidence *stricto sensu*. That is why sub-section (3) says that the accused shall not render himself liable to punishment if he gives false answers. Then comes sub-section (4), which reads:

“313. (4) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.”

Thus, the answers given by the accused in response to his examination under Section 313 can be taken into consideration in such an inquiry or trial. This much is



clear on a plain reading of the above sub-section. Therefore, though not strictly evidence, sub-section (4) permits that it may be taken into consideration in the said inquiry or trial. See *State of Maharashtra v. R.B. Chowdhari* [(1967) 3 SCR 708: AIR 1968 SC 110: 1968 Cri LJ 95]. This Court, in the case of *Hate Singh Bhagat Singh v. State of M.B.* [1951 SCC 1060: 1953 Cri LJ 1933: AIR 1953 SC 468] held that an answer given by an accused under Section 313 examination can be used for proving his guilt as much as the evidence given by a prosecution witness. In *Narain Singh v. State of Punjab* [(1963) 3 SCR 678: (1964) 1 Cri LJ 730], this Court held that if the accused confesses to the commission of the offence with which he is charged, the Court may, relying upon that confession, proceed to convict him. To state the exact language in which the three-Judge bench answered the question, it would be advantageous to reproduce the relevant observations at pages 684-685:

“Under Section 342 of the Code of Criminal Procedure by the first sub-section, insofar as it is material, the Court may at any stage of the enquiry or trial and after the witnesses for the prosecution have been examined and before the accused is called upon for his defence shall put questions to the accused person for the purpose of enabling him to explain any circumstance appearing in the evidence against him. Examination under Section 342 is primarily to be directed to those matters on which evidence has been led for the prosecution to ascertain from the accused his version or explanation, if any, of the incident which forms the subject-matter of the charge and his defence. By sub-section (3), the answers given by the accused may ‘be taken into consideration’ at the enquiry or the trial. *If the accused person in his examination under Section 342 confesses to the commission of the offence charged against him the court may, relying upon that confession, proceed to convict him, but if he does not confess and in explaining circumstance appearing in the evidence against him sets up his own version and seeks to explain his conduct pleading that he*



has committed no offence, the statement of the accused can only be taken into consideration in its entirety.” (emphasis supplied)

Sub-section (1) of Section 313 corresponds to sub-section (1) of Section 342 of the old Code, except that it now stands bifurcated in two parts with the proviso added thereto clarifying that in summons cases where the presence of the accused is dispensed with, his examination under clause (b) may also be dispensed with. Sub-section (2) of Section 313 reproduces the old sub-section (4), and the present sub-section (3) corresponds to the old sub-section (2) except for the change necessitated on account of the abolition of the jury system. The present sub-section (4) with which we are concerned is a verbatim reproduction of the old sub-section (3). Therefore, the aforesaid observations apply with equal force.”

15. This question was again considered 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, and it was held that the statement made by the accused under Section 313 Cr.P.C. can be used to lend credence to the evidence led by the prosecution, but a part of 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, negatives of 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 and 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)

16. 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., in so far as it supports the case of the prosecution, can be used against him for rendering 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 advantage 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.”

17. 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 Cr.P.C. can be used to lend corroboration to the statements of prosecution witnesses. 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 [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 abovementioned 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 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.”

18. Once the accused had admitted that he was driving the motorcycle which was involved in the accident, any discrepancy in the registration number of the motorcycle was not material.

19. Veer Deen (PW2) stated that he heard the noise of the accident. He went to the spot and saw that Barkat Ali had met with an accident. He did not know how the accident had occurred or whose negligence had led to the accident. He was permitted to be cross-examined. He denied in his cross-examination that the accused drove the motorcycle at a high speed and hit Barkat Ali. He volunteered to say that the accused was standing near the motorcycle. He admitted that the accident had occurred due to the negligence of the accused and the high speed of the motorcycle. He stated in his cross-examination by learned counsel for the defence that he had not seen any motorcycle hitting the informant. He had also not seen the motorcycle being driven.



20. The statement of this witness is highly contradictory. He initially claimed that he had not seen the accident and reached the spot after hearing the noise. He admitted in his cross-examination by the learned APP that the accident had occurred due to the high speed of the motorcycle and the negligence of the accused. He again stated in cross-examination by learned counsel for the defence that he had not seen any motorcycle hitting the informant. These statements cannot stand together and will make him an unreliable witness.

21. Alafdeen (PW5) stated that he was going to Paisa Bazar. He saw that Barkat Ali was cutting the grass. A motorcycle came from Rani Taal and hit Barkat Ali on the roadside. The accused was driving the motorcycle at a high speed. The motorcycle had hit Barkat Ali on the edge of the road. He shouted for help. He stated in his cross-examination that many people had gathered on the spot. Barkat Ali had cut the grass and was removing it. He denied that Barkat Ali fell while pulling the grass. He admitted that Barkat Ali was his brother-in-law. His house was located at a distance of 20 yards. He volunteered to say that the house was at a distance of 10 yards. His statement was recorded in the hospital as well as on the spot.



22. Learned Trial Court held that the testimony of this witness was not reliable. This was the finding regarding the credibility of a witness. It was rightly submitted on behalf of the accused that the learned Trial Court had the advantage of watching the demeanour of the witness while recording the statement, and the finding regarding the credibility of a witness should not lightly be interfered with. It was laid down by the Hon'ble Supreme Court in *Babu v. State of Kerala* [*Babu v. State of Kerala*, (2010) 9 SCC 189; (2010) 3 SCC (Cri) 1179] that the Appellate Court should not interfere with the finding of the credibility of the witness. It was observed:

13. In *Sheo Swarup v. King-Emperor*, 1934 SCC OnLine PC 42: (1933-34) 61 IA 398], the Privy Council observed as under: (IA p. 404)

‘ ... the High Court should and will always give proper weight and consideration to such matters as (1) the views of the trial Judge as to the credibility of the witnesses; (2) the presumption of innocence in favour of the accused, a presumption certainly not weakened by the fact that he has been acquitted at his trial; (3) the right of the accused to the benefit of any doubt; and (4) the slowness of an appellate court in disturbing a finding of fact arrived at by a Judge who had the advantage of seeing the witnesses.’

14. The aforesaid principle of law has consistently been followed by this Court. (See *Tulsiram Kanu v. State*, 1951 SCC 92: AIR 1954 SC 1: 1954 Cri LJ 225, *Balbir Singh v. State of Punjab*, AIR 1957 SC 216: 1957 Cri LJ 481, *M.G. Agarwal v. State of Maharashtra*, AIR 1963 SC 200 : (1963) 1 Cri LJ 235,



Khedu Mohton v. State of Bihar, (1970) 2 SCC 450: 1970 SCC (Cri) 479, *Sambasivan v. State of Kerala*, (1998) 5 SCC 412: 1998 SCC (Cri) 1320, *Bhagwan Singh v. State of M.P.*, (2002) 4 SCC 85: 2002 SCC (Cri) 736 and *State of Goa v. Sanjay Thakran*, (2007) 3 SCC 755 : (2007) 2 SCC (Cri) 162.)

23. This witness is related to the informant. He was residing at a distance of 20 yards from the place of the accident and has not assigned any valid reason to be present on the spot. He stated that the accused was driving the motorcycle at a high speed, but he did not mention the approximate speed of the motorcycle. It was laid down by the Hon'ble Supreme Court in *Mohanta Lal vs. State of West Bengal* 1968 ACJ 124 that the use of the term 'high speed' by a witness amounts to nothing unless it is elicited from the witness what is understood by the term 'high speed'. It was observed:

“Further, no attempt was made to find out what this witness understood by high speed. To one man, the speed of even 10 or 20 miles per hour may appear to be high, while to another, even a speed of 25 or 30 miles per hour may appear to be a reasonable speed. On the evidence in this case, therefore, it could not be held that the appellant was driving the bus at a speed which would justify holding that he was driving the bus rashly and negligently. The evidence of the two conductors indicates that he tried to stop the bus by applying the brakes; yet, Gopinath Dey was struck by the bus, though not from the front side of the bus, as he did not fall in front of the bus but fell sideways near the corner of the two roads. It is quite possible that he carelessly tried to run across the road, dashed into the bus and was thrown back by the



moving bus, with the result that he received the injuries that resulted in his death.”

24. This position was reiterated in *State of Karnataka vs.*

Satish 1998 (8) SCC 493, wherein it was held:

“Merely because the truck was being driven at a "high speed" does not bespeak of either "negligence" or "rashness" by itself. None of the witnesses examined by the prosecution could give any indication, even approximately, as to what they meant by "high speed". "High speed" is a relative term. It was for the prosecution to bring on record material to establish as to what it meant by "high speed" in the facts and circumstances of the case. In a criminal trial, the burden of providing everything essential to the establishment of the charge against an accused always rests on the prosecution, and there is a presumption of innocence in favour of the accused until the contrary is proved. Criminality is not to be presumed, subject, of course, to some statutory exceptions. There is no such statutory exception pleaded in the present case. In the absence of any material on the record, no presumption of "rashness" or "negligence" could be drawn by invoking the maxim "res ipsa loquitur.”

25. This Court also held in *State of H.P. Vs. Madan Lal*

2003 Latest H.L.J. (2) 925 that speed alone is not a criterion for

judging rashness or negligence. It was observed: -

“It may be pointed out that speed alone is not a criterion to decide rashness or negligence on the part of a driver. The deciding factor, however, is the situation in which the accident occurs.”

26. This position was reiterated in *State of H.P. Vs.*

Parmodh Singh 2008 Latest HLJ (2) 1360 wherein it was held: -



“Thus, negligent or rash driving of the vehicle has to be proved by the prosecution during the trial, which cannot be automatically presumed even on the basis of the doctrine of res ipsa loquitur. Mere driving of a vehicle at a high speed or slow speed does not lead to an inference that negligent or rash driving had caused the accident resulting in injuries to the complainant. In fact, speed is no criterion to establish the fact of rash and negligent driving of a vehicle. It is only a rash and negligent act as its ingredients, to which the prosecution has failed to prove in the instant case.”

27. Therefore, his statement is insufficient to establish the negligence.

28. The informant was medically examined, and MLC (Ext.PW4/N) was issued. The Medical Officer noticed CLW over the bridge of the nose, CLW over the left side of the face, with fresh bleeding and swelling on the neck. These injuries were simple in nature. The Medical Officer was not examined by the prosecution, and there is no explanation as to how the injuries were sustained only on the nose, left side of the face and the neck. As per Alafdeen (PW5), the informant was picking up the grass. Therefore, he would have sustained injuries to the legs or the back. The fact that injuries were sustained on the neck, face and nose supports the defence version that the informant had fallen while removing the grass.



29. Therefore, the view taken by the learned Trial Court was reasonable, even though, not the only view which could have been taken. This Court will not interfere with the reasonable view of the learned Trial Court, even if another view is possible or this Court would have taken a different view had it been trying the matter on the original side.

30. In view of the above, the present appeal fails, and it is dismissed. Pending applications, if any, also stand disposed of.

31. A copy of the judgment, along with record of the learned Trial Court, be sent back forthwith.

28th November, 2025
(Nikita)

(Rakesh Kainthla)
Judge