IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No. 157 of 2014
Reserved on: 16.06.2026
Date of Decision: 25.06.2026

Amit Kapoor ...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 Ajay Kochhar, Senior Advocate, with Mr Anubhav Chopra, Advocate.

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

Rakesh Kainthla, Judge

The present revision is directed against the judgment dated 10.04.2014 passed by learned Additional Sessions Judge-III, Kangra at Dharmsala (camp at Baijnath) (learned Appellate Court) vide which the judgment of conviction and order of sentence dated 04.02.2012 passed by learned Judicial Magistrate First Class, Baijnath, District Kangra (learned Trial Court) were upheld. *(The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience.)*

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

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2. Briefly stated, the facts giving rise to the present petition 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 304A of the Indian Penal Code (IPC). It was asserted that the informant Krishan Kumar (PW1) and his father Bishan Dass (since deceased) had attended the marriage of the informant's cousin in Kapoor Palace, Baijnath. The barat was returning. Bishan Dass was walking on the road on 20.07.2010 at about 8:30 a.m. A vehicle bearing registration No. HP-53-4284 was reversed at high speed and hit Bishan Dass, who fell. The rear tyre of the vehicle crushed the face of Bishan Dass, and he became unconscious. The informant and another person shouted, and the driver stopped the vehicle. Informant, Bhikam Ram and Bhaag Singh took Bishan Dass to the hospital in the same vehicle. The Doctor declared Bishan Dass to be dead. The accident occurred because of the negligence of the driver of the vehicle bearing registration No. HP-53-4284. The matter was reported to the police, and an entry (Ext.PW6/A) was registered in the Police Station. ASI Hans Raj (PW9) and Constable Sandeep Kumar were sent to the hospital for verification. ASI Hans Raj (PW9) recorded the informant's statement (Ext.PW1/A) and sent it to the Police

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Station, where FIR (Ext.PW5/A) was registered. ASI Hans Raj (PW9) investigated the matter. Ajay Kumar (PW8) took the photographs (Ext.PW8/A1 to Ext.PW8/A5). ASI Hans Raj (PW9) conducted the inquest on the dead body and prepared the report (Ext.PW1/B). Dr Raj Kumar (PW7) conducted the post-mortem examination and found that the cause of death was a massive head injury. He issued the report (Ext.PW7/A). ASI Hans Raj (PW9) visited the spot and prepared the site plan (Ext.PW9/A). Bhikam Ram produced the vehicle, its documents, and the driving license of the accused, which were seized vide memo (Ext.PW3/A). Multan Singh (PW4) mechanically examined the vehicle and found that there was no mechanical defect in it that would have led to the accident. 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. 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 304-A of the IPC, to which he pleaded not guilty and claimed to be tried.

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4. The prosecution examined nine witnesses to prove its case. Krishan Kumar (PW1) is the informant. Surinder Kumar (PW2) is an eyewitness. Kashmir Singh (PW3) did not support the prosecution's case. Multan Singh (PW4) mechanically examined the vehicle. SI Kailash Chand (PW5) signed the FIR. HHC Gulzar (PW6) proved the entry in the daily diary. Dr Raj Kumar (PW7) conducted the post-mortem examination of the deceased. Ajay Kumar (PW8) took the photographs. ASI Hans Raj (PW9) investigated the matter.

5. The accused, in his statement recorded under Section 313 of the Code of Criminal Procedure (Cr.P.C.), denied the prosecution's case in its entirety. He claimed that the witnesses had deposed falsely against him. He was innocent. He did not produce any evidence in his defence.

6. Learned Trial Court held that the testimonies of the informant and Surinder Kumar (PW2) corroborated each other. The defence taken by the accused that Bishan Dass had fallen by himself was not probable. The accused was negligent in reversing the vehicle. There was no negligence on the part of Bishan Dass. The medical evidence proved that Bishan Dass had sustained injuries in an accident. Hence, the prosecution had succeeded in

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proving its case beyond a reasonable doubt, and the learned Trial Court convicted and sentenced the accused as under:

Sections	*Sentences*
279 of the Indian Penal Code	The accused was sentenced to undergo simple imprisonment for three months, pay a fine of ₹500/- and in default of payment of fine, to undergo simple imprisonment for one month.
304-A of the Indian Penal Code	The accused was sentenced to undergo simple imprisonment for six months, pay a fine of ₹500/- and in default of payment of the fine, to undergo simple imprisonment for one month.
Both sentences of imprisonment were ordered to run concurrently.	

7. Being aggrieved by the judgment and order passed by the learned Trial Court, the accused filed an appeal, which was decided by the learned Additional Sessions Judge-III, Kangra, at Dharamshala, camp at Baijnath, District Kangra, H.P. (learned Appellate Court). The Appellate Court concurred with the findings recorded by the learned Trial Court that the accused was driving

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the vehicle bearing registration No. HP-53-4284, which had crushed Bishan Dass under its tyre. The accused was negligent because he failed to take care before reversing the vehicle. The defence taken by the accused that the deceased had fallen from a *danga* was not probable. Learned Trial Court had imposed an adequate sentence, and no interference was required. Hence, the appeal was dismissed.

8. Being aggrieved by the judgments and order passed by the learned Courts below, the accused has filed the present revision asserting that the learned Courts below failed to properly appreciate the material on record. The testimonies of Krishan Kumar (PW1) and Surinder Kumar (PW2) were relied upon without any corroboration from any independent source. Both these witnesses were related to each other. The prosecution failed to produce any evidence to show the negligence of the accused. The Appellate Court mechanically affirmed the judgment passed by the learned Trial Court. 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 Ajay Kochhar, learned Senior Counsel assisted by Mr Anubhav Chopra, learned counsel for the

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petitioner/accused, and Mr Jitender Sharma, learned Additional Advocate General for the respondent/State.

10. Mr Ajay Kochhar, learned Senior Counsel for the petitioner/accused, submitted that the learned Courts below erred in convicting and sentencing the accused. There was no evidence of the rashness or negligence of the accused. The statements of the informant and Surinder Kumar (PW2) show that the deceased had seen the vehicle being reversed and had not taken care to avoid the accident. Therefore, he was guilty of contributory negligence, and the learned Courts below erred in holding that there was no contributory negligence on his part. Mere use of the term high speed does not amount to any rashness or negligence. Hence, he prayed that the present revision be allowed and the judgments and order passed by the learned Courts below be set aside. He relied upon the following judgments in support of his submissions.

i) **Deep Raj vs. State of H.P. 2025:HHC:19449**

ii) **State of H.P. Vs. Ashok Kumar Cr. Appeal No. 178 of 2015 decided on 25.03.2026**

iii) **State of H.P. Vs. Ram Pal 2025:HHC:31087**

iv) **State of H.P. Vs. Mohinder Singh 2025:HHC:31290**

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11. Mr Jitender Sharma, learned Additional Advocate General for the respondent/State, submitted that the accused reversed the vehicle without taking care of the probable danger to the pedestrians walking on the road. The learned Courts below had rightly appreciated the evidence, and this Court should not re-appreciate the evidence while deciding the revision. Hence, he prayed that the present revision be dismissed.

12. I have given a 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 adverting 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

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provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error that 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.
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> **15.** It would be apposite to refer to the judgment of this Court in ***Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460: (2012) 4 SCC (Civ) 687: (2013) 1 SCC (Cri) 986***, where the scope of Section 397 has been considered and succinctly explained as under: (SCC p. 475, paras 12-13)
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> > "*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

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> 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.
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> *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 aforestated. 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 re-appreciate the evidence and draw 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)
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> > *5.* ... In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings to

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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 amount 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

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> 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."

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.
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> **17.** 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. 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

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> 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.
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> **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 informant Krishan Kumar (PW1) stated that he and his father were walking on the road after taking breakfast in Kapoor Palace, Baijnath at about 8:30 a.m. A Bolero vehicle bearing registration HP-53-4284 was reversed, which hit Bishan Dass, who fell on the spot. The rear tyre of the Bolero vehicle crushed his face, and Bishan Dass became unconscious. Bishan Dass was taken to the hospital in the same vehicle. The doctor declared Bishan Dass to be dead. The accident occurred because of the negligence of the accused, who was driving the vehicle at the time of the accident. He stated in his cross-examination that 40-50 people had taken breakfast. He was walking at some distance from Bishan Dass. He admitted that there were two roads on the spot; one was a national highway, and another was an unmetalled road which was

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straight for a distance of about 100 metres. A person could see a vehicle from a distance. He had seen the Bolero vehicle being reversed, and he had shouted. Surinder Kumar (PW2) was walking with him. He admitted that shops and petrol pumps were visible in the photographs. He admitted that he had not seen the accused driving the vehicle, but volunteered to say that the accused came out of the driver's seat after the vehicle was stopped.

20. Surinder Kumar (PW2) stated that he had attended a marriage in Kapoor Palace, Baijnath. He, the informant and Bishan Dass were walking on the road. A Bolero vehicle bearing registration No. HP-53-4284 was reversed. The driver could not maintain the balance due to the steepness and hit Bishan Dass. Bishan Dass was crushed under the tyre of the vehicle. He was taken to the hospital in the same vehicle. The accident occurred because of the negligence of the accused, as he could not balance the vehicle, and he was unable to see in the rear as the children were sitting in the vehicle. He stated in his cross-examination that some people had taken breakfast, and some were taking breakfast, 5-7 people were walking with him. He admitted that there were two roads on the spot: one was a national highway, and the other was an unmetalled road. He also admitted that it was possible for

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the pedestrian to see the vehicle being reversed. The vehicle increased its speed, and Bishan Dass did not have any opportunity to save himself. He could have been saved had the speed of the vehicle been slower. He denied that there was no negligence on the part of the accused.

21. The statements of these witnesses corroborate each other on material aspects. Both witnesses have consistently stated that the accused reversed the vehicle without taking care of the pedestrians walking on the road.

22. Rule 31 of the Rules of Road Regulations, 1989 provides that no driver of a motor vehicle shall cause the vehicle to be driven backwards without first satisfying himself that he will not thereby cause danger or inconvenience to any person. Thus, an obligation has been cast upon the driver of the motor vehicle to ensure that his reversing the vehicle does not cause any danger to any person. The accused should have noticed the presence of Bishan Dass on the road because the road was straight for a distance of about 100 metres. He failed to do so, and this constituted negligence on his part. It was laid down by the Hon'ble Supreme Court in ***Mohd. Aynuddin v. State of A.P.*, *(2000) 7 SCC 72,*** that a driver can take the

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reverse motion when he assures himself that the vehicle can safely be taken backwards. It was observed:

> "**6.** A driver who moves the bus forward can be expected to keep his eyes ahead and possibly on the sides. A driver can take the reverse motion when that driver assures himself that the vehicle can safely be taken backwards."

23. In the present case, the accused had failed to ensure that the vehicle could be taken safely backwards, and he was rightly held guilty of negligence by the learned Courts below.

24. It was submitted that Bishan Dass was himself negligent because he could have seen the Bolero vehicle, and he did not move aside. This submission is only stated to be rejected. It was laid down by the Andhra Pradesh High Court in ***Islavath Taru Naik v. State of A.P., 2025 SCC OnLine AP 3243,*** that contributory negligence is no defence in criminal law. It was observed:

> **20.** ***In Ponnuswami, In re 1949 Supreme(Mad) 338***, the High Court of Madras held that: Contributory negligence, in the strict sense of the term, has no place in criminal law. If the petitioner was not guilty of negligence, he would certainly not be liable under section 304-A, Penal Code, 1860. The fact that the victim also contributed a little by his negligence is absolutely immaterial when there is ample proof that the petitioner had brought about the accident by his own negligence and rash driving, and attempted to overtake at that point. He could and should have avoided the accident by his care and caution.

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> The main thing for consideration in a criminal case, under section 304-A, Penal Code, 1860, is whether the accused in the case has caused the death of any person by doing any rash or negligent act not amounting to culpable homicide. Once that is proved, the little contributory negligence on the part of the victim and the accused's good military record are irrelevant except for the purpose of sentencing.
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> **21.** This Court is of the view that the doctrine of contributory negligence does not apply to criminal actions. Contributory negligence of the victim is no defence against a charge under 304A of the IPC. The accused will be liable even though there has been a degree of negligence on the part of the victim. A driver must anticipate reasonably foreseeable negligent acts of road users.

25. The Rule of the Road Regulations, 1989 casts an obligation upon the driver to ensure the safety of the persons before moving the vehicle backwards, and the accused had breached this duty. Hence, he cannot take shelter behind the principle of contributory negligence.

26. In any case, the contributory negligence of the deceased was not proved. Surinder Kumar (PW2) specifically stated that the vehicle suddenly reversed and there was no opportunity to save Bishan Dass, which shows that Bishan Dass could not have avoided the accident, even if he had tried to do so. Thus, the last opportunity to save the accident was with the accused and not Bishan Dass and the learned Courts below had rightly held that Bishan Dass was not guilty of the contributory negligence.

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27. Surinder Kumar (PW2) stated that the deceased was his uncle. It was submitted that the prosecution has relied upon the statements of related witnesses. This submission will not help the petitioner. It was laid down by the Hon'ble Supreme Court in ***Laltu Ghosh v. State of W.B.*, *(2019) 15 SCC 344: (2020) 1 SCC (Cri) 275: 2019 SCC OnLine SC 2*** that a related witness is not an interested witness and his testimony cannot be rejected on the ground of interestedness. It was observed:

> **"12.** As regards the contention that the eyewitnesses are close relatives of the deceased, it is by now well-settled that a related witness cannot be said to be an "interested" witness merely by virtue of being a relative of the victim. This Court has elucidated the difference between "interested" and "related" witnesses in a plethora of cases, stating that a witness may be called interested only when he or she derives some benefit from the result of litigation, which in the context of a criminal case would mean that the witness has a direct or indirect interest in seeing the accused punished due to prior enmity or other reasons, and thus has a motive to falsely implicate the accused (for instance, see ***State of Rajasthan* v. *Kalki*, *(1981) 2 SCC 752: 1981 SCC (Cri) 593; Amit v. State of U.P., (2012) 4 SCC 107 : (2012) 2 SCC (Cri) 590*** and ***Gangabhavani v. Rayapati Venkat Reddy, (2013) 15 SCC 298 : (2014) 6 SCC (Cri) 182)***.
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> **13.** Recently, this difference was reiterated in ***Ganapathi v. State of T.N., (2018) 5 SCC 549 : (2018) 2 SCC (Cri) 793***, in the following terms, by referring to the three-Judge Bench decision in ***State of Rajasthan v. Kalki, (1981) 2 SCC 752: 1981 SCC (Cri) 593 : (Ganapathi v. State of T.N., (2018) 5 SCC 549 : (2018) 2 SCC (Cri) 793)***, SCC p. 555, para 14)

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> "*14*. "Related" is not equivalent to "interested". A witness may be called "interested" only when he or she derives some benefit from the result of a litigation; in the decree in a civil case, or in seeing an accused person punished. A witness who is a natural one and is the only possible eyewitness in the circumstances of a case cannot be said to be "interested"....

14. In criminal cases, it is often the case that the offence is witnessed by a close relative of the victim, whose presence on the scene of the offence would be natural. The evidence of such a witness cannot automatically be discarded by labelling the witness as interested. Indeed, one of the earliest statements with respect to interested witnesses in criminal cases was made by this Court in ***Dalip Singh v. State of Punjab, 1954 SCR 145: AIR 1953 SC 364: 1953 Cri LJ 1465***, wherein this Court observed: (AIR p. 366, para 26)

> "*26*. A witness is normally to be considered independent unless he or she springs from sources which are likely to be tainted, and that usually means unless the witness has cause, such as enmity against the accused, to wish to implicate him falsely. Ordinarily, a close relative would be the last to screen the real culprit and falsely implicate an innocent person."

15. In the case of a related witness, the Court may not treat his or her testimony as inherently tainted and needs to ensure only that the evidence is inherently reliable, probable, cogent and consistent. We may refer to the observations of this Court in ***Jayabalan v. State (UT of Pondicherry), (2010) 1 SCC 199: (2010) 2 SCC (Cri) 966)***: (SCC p. 213, para 23)

> "*23*. We are of the considered view that in cases where the court is called upon to deal with the evidence of the interested witnesses, the approach of the court, while appreciating the evidence of such witnesses, must not be pedantic. The court must be cautious in appreciating and accepting the evidence given by the

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> interested witnesses, but the court must not be suspicious of such evidence. The primary endeavour of the court must be to look for consistency. The evidence of a witness cannot be ignored or thrown out solely because it comes from the mouth of a person who is closely related to the victim."

28. It was laid down by the Hon'ble Supreme Court in ***Thoti Manohar vs State of Andhra Pradesh (2012) 7 SCC 723*** that the court cannot discard the testimony of a witness on the ground of a relationship. It was observed:

> "31. In this context, we may refer with profit to the decision of this Court in ***Dalip Singh v. State of Punjab AIR 1953 SC 364***, wherein Vivian Bose, J., speaking for the Court, observed as follows: -
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> > "We are unable to agree with the learned Judges of the High Court that the testimony of the two eye-witnesses requires corroboration. If the foundation for such an observation is based on the fact that the witnesses are women and that the fate of seven men hangs on their testimony, we know of no such rule. If it is grounded on the reason that they are closely related to the deceased, we are unable to concur. This is a fallacy common to many criminal cases and one which another Bench of this Court endeavoured to dispel in ***Rameshwar v. The State of Rajasthan (1952) SCR 377 at p. 390 = (AIR 1952 SC 54 at page 59)***."
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> 32. In the said case, it was further observed that:
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> > "A witness is normally to be considered independent unless he or she springs from sources which are likely to be tainted, and that usually means unless the witness has a cause, such as an enmity against the accused, to wish to implicate him falsely. Ordinarily, a close relative would be the last to screen the real culprit and falsely implicate an innocent person. It is

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> true that when feelings run high, and there is a personal cause for enmity, there is a tendency to drag in an innocent person against whom a witness has a grudge along with the guilty, but the foundation must be laid for such criticism, and the mere fact of relationship, far from being a foundation, is often a sure guarantee of truth."

33. In ***Masalti v. State of U.P. AIR 1965 SC 202***, it has been ruled that normally close relatives of the deceased would not be considered to be interested witnesses who would also mention the names of the other persons as responsible for causing injuries to the deceased.

34. In ***Hari Obula Reddi and others v. State of Andhra Pradesh AIR 1981 SC 82***, a three-judge Bench has held that evidence of interested witnesses is not necessarily unreliable evidence. Even partisanship by itself is not a valid ground for discrediting or rejecting sworn testimony. It can be laid down as an invariable rule that interested evidence can never form the basis of conviction unless corroborated to a material extent in material particulars by independent evidence. All that is necessary is that the evidence of interested witnesses should be subjected to scrutiny and accepted with caution. If, on such scrutiny, the interested testimony is found to be intrinsically reliable or inherently probable, it may, by itself, be sufficient, in the circumstances of the particular case, to base a conviction thereon.

35. In ***Kartik Malhar v. State of Bihar (1996) 1 SCC 614***, it has been opined that a close relative who is a natural witness cannot be regarded as an interested witness, for the term 'interested' postulates that the witness must have some interest in having the accused, somehow or other, convicted for some animus or some other reason.

36. In ***Pulicherla Nagaraju alias Nagaraja Reddy v. State of Andhra Pradesh AIR 2006 SC 3010***, while dealing with the liability of interested witnesses who are relatives, a two-judge Bench observed that:

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> "It is well settled that evidence of a witness cannot be discarded merely on the ground that he is either partisan or interested or close relative to the deceased if it is otherwise found to be trustworthy and credible."

The said evidence only requires scrutiny with more care and caution, so that neither the guilty escapes nor the innocent is wrongly convicted. If, on such scrutiny, the evidence is found to be reliable and probable, then it can be acted upon.

> "If it is found to be improbable or suspicious, it ought to be rejected. Where the witness has a motive to falsely implicate the accused, his testimony should have corroboration in regard to material particulars before it is accepted."

29. This position was reiterated in ***Rajesh Yadav vs. State of Bihar 2022 Cr.L.J. 2986 (SC)*** as under:

> "28. A related witness cannot be termed as an interested witness per se. One has to see the place of occurrence along with other circumstances. A related witness can also be a natural witness. If an offence is committed within the precincts of the deceased, the presence of his family members cannot be ruled out, as they assume the position of natural witnesses. When their evidence is clear, cogent and withstands the rigour of cross-examination, it becomes sterling, not requiring further corroboration. A related witness would become an interested witness only when he is desirous of implicating the accused in rendering a conviction, on purpose.
>
> 29. When the court is convinced of the quality of the evidence produced, notwithstanding the classification as quoted above, it becomes the best evidence. Such testimony being natural, adding to the degree of probability, the court has to rely upon it in proving a fact. The aforesaid position of law has been well laid down in ***Bhaskarrao v. State of Maharashtra, (2018) 6 SCC 591***:

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"32. Coming back to the appreciation of the evidence at hand, at the outset, our attention is drawn to the fact that the witnesses were interrelated, and this Court should be cautious in accepting their statements. It would be beneficial to recapitulate the law concerning the appreciation of evidence of a related witness. In ***Dalip Singh v. State of Punjab, 1954 SCR 145: AIR 1953 SC 364: 1953 Cri LJ 1465***, Vivian Bose, J. for the Bench, observed the law as under (AIR p. 366, para 26)

> "26. A witness is normally to be considered independent unless he or she springs from sources which are likely to be tainted, and that usually means unless the witness has a cause, such as an enmity against the accused, to wish to implicate him falsely. Ordinarily, a close relative would be the last to screen the real culprit and falsely implicate an innocent person. It is true when feelings run high, and there is a personal cause for enmity, that there is a tendency to drag in an innocent person against whom a witness has a grudge along with the guilty, but the foundation must be laid for such a criticism, and the mere fact of relationship, far from being a foundation, is often a sure guarantee of truth. However, we are not attempting any sweeping generalisation. Each case must be judged on its own facts. Our observations are only made to combat what is so often put forward in cases before us as a general rule of prudence. There is no such general rule. Each case must be limited to and be governed by its own facts."

33. In ***Masalti v. State of U.P., (1964) 8 SCR 133: AIR 1965 SC 202: (1965) 1 Cri LJ 226]***, a five-judge Bench of this Court has categorically observed as under (AIR pp. 209-210, para 14)

> "14. ... There is no doubt that when a criminal court has to appreciate evidence given by witnesses who are partisan or interested, it has to be very careful in weighing such evidence. Whether or not there are discrepancies in the evidence, whether or not the evidence strikes the court as genuine, whether or not the story disclosed by the evidence is probable, are all

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matters that must be taken into account. But it would, we think, be unreasonable to contend that evidence given by witnesses should be discarded only on the ground that it is evidence of partisan or interested witnesses. Often enough, where factions prevail in villages and murders are committed as a result of enmity between such factions, criminal courts have to deal with evidence of a partisan type. The mechanical rejection of such evidence on the sole ground that it is partisan would invariably lead to the failure of justice. No hard-and-fast rule can be laid down as to how much evidence should be appreciated. The judicial approach has to be cautious in dealing with such evidence, but the plea that such evidence should be rejected because it is partisan cannot be accepted as correct."

34. In ***Darya Singh v. State of Punjab [(1964) 3 SCR 397: AIR 1965 SC 328: (1965) 1 Cri LJ 350]***, this Court held that evidence of an eyewitness who is a near relative of the victim should be closely scrutinised, but no corroboration is necessary for acceptance of his evidence. In ***Harbans Kaur v. State of Haryana [(2005) 9 SCC 195: 2005 SCC (Cri) 1213: 2005 Cri LJ 2199]***, this Court observed that: (SCC p. 227, para 6)

"6. There is no proposition in law that relatives are to be treated as untruthful witnesses. On the contrary, reason has to be shown when a plea of partiality is raised to show that the witnesses had reason to shield the actual culprit and falsely implicate the accused."

35. The last case we need to concern ourselves with is ***Namdeo v. State of Maharashtra (2007) 14 SCC 150: (2009) 1 SCC (Cri) 773***, wherein this Court, after observing previous precedents, has summarised the law in the following manner: (SCC p. 164, para 38)

"38. ... It is clear that a close relative cannot be characterised as an "interested" witness. He is a "natural" witness. His evidence, however, must be scrutinised carefully. If, on such scrutiny, his evidence is found to be intrinsically reliable, inherently probable and wholly trustworthy, a conviction can be based on

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> the "sole" testimony of such a witness. A close relationship of the witness with the deceased or the victim is no grounds to reject his evidence. On the contrary, a close relative of the deceased would normally be most reluctant to spare the real culprit and falsely implicate an innocent one."

36. From the study of the aforesaid precedents of this Court, we may note that whoever has been a witness before the court of law, having a strong interest in the result, if allowed to be weighed in the same scales with those who do not have any interest in the result, would be to open the doors of the court for perverted truth. This sound rule, which remains the bulwark of this system and which determines the value of evidence derived from such sources, needs to be cautiously and carefully observed and enforced. There is no dispute about the fact that the interest of the witness must affect his testimony is a universal truth. Moreover, under the influence of bias, a man may not be in a position to judge correctly, even if they earnestly desires to do so. Similarly, he may not be in a position to provide evidence in an impartial manner when it involves his interests. Under such influences, man will, even though not consciously, suppress some facts, soften or modify others, and provide favourable colour. These are the most controlling considerations in respect to the credibility of human testimony, and should never be overlooked in applying the rules of evidence and determining its weight in the scale of truth under the facts and circumstances of each case."

30. Once again, we reiterate with a word of caution that the trial court is the best court to decide on the aforesaid aspect, as no mathematical calculation or straightjacket formula can be made on the assessment of a witness, as the journey towards the truth can be seen better through the eyes of the trial judge. In fact, this is the real objective behind the enactment itself, which extends the maximum discretion to the court."

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30. Similar is the judgment in ***M Nageswara Reddy vs. State of Andhra Pradesh 2022 (5) SCC 791,*** wherein it was observed:

> "10. Having gone through the deposition of the relevant witnesses -eye-witnesses/injured eye-witnesses, we are of the opinion that there are no major/material contradictions in the deposition of the eye-witnesses and injured eye-witnesses. All are consistent insofar as accused Nos. 1 to 3 are concerned. As observed hereinabove, PW6 has identified Accused Nos. 1 to 3. The High Court has observed that PW1, PW3 & PW5 were planted witnesses merely on the ground that they were all interested witnesses, being relatives of the deceased. Merely because the witnesses were the relatives of the deceased, their evidence cannot be discarded solely on the aforesaid ground. Therefore, in the facts and circumstances of the case, the High Court has materially erred in discarding the deposition/evidence of PW1, PW3, PW5 & PW6 and even PW7."

31. It was laid down by the Hon'ble Supreme Court in ***Mohd. Jabbar Ali v. State of Assam, 2022 SCC OnLine SC 1440***, that relationship is no reason to discard the witnesses' testimonies. The Court is required to see their testimonies with due care and caution. It was observed:

> **55.** It is noted that great weight has been attached to the testimonies of the witnesses in the instant case. Having regard to the aforesaid fact that this Court has examined the credibility of the witnesses to rule out any tainted evidence given in the court of Law. It was contended by learned counsel for the appellant that the prosecution failed to examine any independent witnesses in the present case and that the witnesses were related to each other. This Court, in a number of cases, has had the opportunity to consider the said aspect of related/interested/partisan witnesses and the

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credibility of such witnesses. This Court is conscious of the well-settled principle that just because the witnesses are related/interested/partisan witnesses, their testimonies cannot be disregarded; however, it is also true that when the witnesses are related/interested, their testimonies have to be scrutinised with greater care and circumspection. In the case of ***Gangadhar Behera v. State of Orissa, (2002) 8 SCC 381***, this Court held that the testimony of such related witnesses should be analysed with caution for its credibility.

56. In ***Raju alias Balachandran* v. *State of Tamil Nadu***, ***(2012) 12 SCC 701***, this Court observed:

> "29. The sum and substance is that the evidence of a related or interested witness should be meticulously and carefully examined. In a case where the related and interested witness may have some enmity with the assailant, the bar would need to be raised, and the evidence of the witness would have to be examined by applying a standard of discerning scrutiny. However, this is only a rule of prudence and not one of law, as held in ***Dalip Singh [AIR 1953 SC 364]*** and pithily reiterated in ***Sarwan Singh [(1976) 4 SCC 369***] in the following words: (***Sarwan Singh case [(1976) 4 SCC 369***, p. 376, para 10)
>
> > "10. ... The evidence of an interested witness does not suffer from any infirmity as such, but the courts require, as a rule of prudence, not as a rule of law, that the evidence of such witnesses should be scrutinised with a little care. Once that approach is made and the court is satisfied that the evidence of interested witnesses has a ring of truth, such evidence could be relied upon even without corroboration."

57. Further delving into the same issue, it is noted that in the case of ***Ganapathi v. State of Tamil Nadu, (2018) 5 SCC 549***, this Court held that in several cases when only family members are present at the time of the incident and the case of the prosecution is based only on their evidence, Courts

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have to be cautious and meticulously evaluate the evidence in the process of trial.

32. This position was reiterated in ***Baban Shankar Daphal v. State of Maharashtra, 2025 SCC OnLine SC 137,*** wherein it was observed:

> "**27.** One of the contentions of the learned counsel for the appellants is that the eyewitnesses to the incident were all closely related to the deceased, and for prudence, the prosecution ought to have examined some other independent eyewitnesses as well who were present at the time of the unfortunate incident. This was also the view taken by the Trial Court, but the High Court has correctly rejected such an approach and held that merely because there were some more independent witnesses, who had also reached the place of the incident, the evidence of the relatives cannot be disbelieved. The law nowhere states that the evidence of the interested witness should be discarded altogether. The law only warrants that their evidence should be scrutinised with care and caution. It has been held by this Court in the catena of judgments that merely if a witness is a relative, their testimony cannot be discarded on that ground alone.
>
> **28.** In criminal cases, the credibility of witnesses, particularly those who are close relatives of the victim, is often scrutinised. However, being a relative does not automatically render a witness "interested" or biased. The term "interested" refers to witnesses who have a personal stake in the outcome, such as a desire for revenge or to falsely implicate the accused due to enmity or personal gain. A "related" witness, on the other hand, is someone who may be naturally present at the scene of the crime, and their testimony should not be dismissed simply because of their relationship to the victim. Courts must assess the reliability, consistency, and coherence of their statements rather than labelling them as untrustworthy.

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> **29.** The distinction between "interested" and "related" witnesses has been clarified in **Dalip Singh v. State of Punjab** ***1954 SCR 145: AIR 1953 SC 364: 1953 Cri LJ 1465***, where this Court emphasised that a close relative is usually the last person to falsely implicate an innocent person. Therefore, in evaluating the evidence of a related witness, the court should focus on the consistency and credibility of their testimony. This approach ensures that the evidence is not discarded merely due to familial ties, but is instead assessed based on its inherent reliability and consistency with other evidence in the case. This position has been reiterated by this Court in:
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> > **i.** ***Md. Rojali Ali v. The State of Assam, Ministry of Home Affairs through secretary (2019) 19 SCC 567;***
> >
> > ***ii. Ganapathi v. State of T.N. (2018) 5 SCC 549;***
> >
> > ***iii. Jayabalan v. Union Territory of Pondicherry (2010) 1 SCC 199***.
>
> **30.** Though the eyewitnesses who have been examined in the present case were closely related to the deceased, namely his wife, daughter and son, their testimonies are consistent with respect to the accused persons being the assailants who inflicted wounds on the deceased. As is revealed from the sequence of events that transpired, one of the family members was subjected to an assault. It was thus quite natural for the other family members to rush on the spot to intervene. The presence of the family members on the spot and thus being eyewitnesses has been well established. In such circumstances, merely because the eyewitnesses are family members, their testimonies cannot be discarded solely on that ground.

33. Therefore, the testimonies of these witnesses could not have been rejected because of the relationship between them.

34. It was submitted that Surinder Kumar (PW2) had not mentioned the approximate speed of the vehicle and had used the

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term high speed which is not sufficient to convict the accused. This submission will not help the petitioner. The precise negligence of the accused is that he had failed to take care before reversing the vehicle, and not that he was driving the vehicle at a high speed. Therefore, the judgments cited on behalf of the petitioner dealing with the proposition that high speed does not amount to any negligence will not apply to the present case.

35. It was suggested to the prosecution witnesses that the deceased had himself fallen from a height. The learned Courts below had rightly rejected this plea because of the statement of Dr Raj Kumar (PW7), who categorically stated that the crush injuries are not possible by falling from a height. Thus, the medical evidence ruled out that the deceased had fallen from a height.

36. Therefore, learned Courts below had rightly held that the accused was driving the vehicle and his negligence was the proximate cause of the accident.

37. Dr Raj Kumar (PW7) conducted the post-mortem examination of the deceased and found that the cause of death was a massive head injury leading to a coma and severe haemorrhage. These injuries could have been caused in a roadside accident. Thus,

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the statement of Dr Raj Kumar (PW7) clearly proved that Bishan Dass had died in an accident which was caused by the negligence of the accused.

38. The learned Trial Court had sentenced the accused to undergo simple imprisonment for six months. It was submitted that the learned Trial Court erred in sentencing the accused, and the benefit of the Probation of Offenders Act should have been granted. This submission cannot be accepted. It was laid down by the Hon'ble Supreme Court in ***Dalbir Singh Versus State of Haryana (2000) 5 SCC 82*** that the benefit of the Probation of Offenders Act cannot be granted to a person convicted of rash or negligent driving, and a deterrent sentence is to be awarded to him. 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

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> 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."

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39. 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]***.

40. Similar is 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."

41. Therefore, it is not permissible to grant a benefit under the Probation of Offenders Act, and a deterrent view has to be

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taken; hence the sentence of six months cannot be said to be excessive in any manner requiring any interference from this Court.

42. No other point was urged.

43. Thus, the judgments and order passed by the learned Courts below are fully sustainable. Hence, the present revision fails and is dismissed.

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

45. The record of the learned Courts below be returned with a copy of the judgment.

(Rakesh Kainthla)
Judge

25th June, 2026
(Nikita)