

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 145 of 2014

Reserved on: 20.3.2026

Date of Decision: 8.5.2026.

State of H.P.

...Appellant

Versus

Iqwal Singh

...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No.

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

For the Respondent : Ms Yogita Dutta, Advocate.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 19.11.2023, passed by the learned Additional Chief Judicial Magistrate, Kangra, District Kangra, HP (learned Trial Court), vide which the respondent (accused before the learned Trial Court) was acquitted of the commission of offences punishable under Section 279, 337 and 338 of the Indian Penal Code (IPC).

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

(The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned trial Court for convenience.

2. Briefly stated, the facts giving rise to the present appeal are that the police presented a challan before the learned trial Court against the accused for the commission of offences punishable under sections 279, 337 and 338 of the IPC. It was asserted that the informant, Mahaveer Singh (PW1), was posted as a Conductor in Haryana roadways. He was deputed with driver Kulveer (PW2) on a bus bearing Registration No. HR-55B-7409 from Gurgaon to Baijnath. The bus reached near Hatwas Petrol Pump when a Tourist bus bearing Registration No. RJ-31P-0049 came from the opposite side at high speed and hit the Haryana roadways bus. Kulveer and the passengers sustained injuries in the accident. The accident occurred due to the negligence of the driver of the bus bearing Registration No. RJ-31P-0049. The driver revealed his name as Iqbal Singh. The matter was reported to the police, and the police visited the spot. Mahaveer Singh's statement (Ex.PW1/A) was recorded, which was sent to the Police Station, where an FIR (Ex.PW7/A) was registered. Mohinder Gill (PW7) investigated the matter. He went to the spot and prepared the site plan (Ex.PW7/B). He seized the bus

bearing Registration No. HR-55B-7409 vide memo (Ex.PW7/F) and bus bearing Registration No. RJ-31P-0049 vide memo (Ex.PW7/G). He seized the documents of the bus bearing Registration No. RJ-31P-0049 vide memo (Ex.PW7/E). HC Rajinder Kumar (PW5) conducted mechanical examination of the buses and found no defect in them that could have led to the accident. He issued the reports (Ex.PW5/A and Ex. PW5/B). The medical examination of the injured were conducted, and the MLCs (Ex.PA to Ex.PG) were obtained. The statements of witnesses were recorded as per their version, and after the completion of the investigation, the charge sheet was prepared and filed before the Court.

3. Learned Trial Court found sufficient reasons to summon the accused. When the accused appeared before the learned Trial Court, a notice of accusation was put to him for the commission of offences punishable under Sections 279, 337 and 338 of the IPC, to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined fifteen witnesses to prove its case. Mahaveer Singh (PW1) is the informant. Kulbeer Singh

(PW2) was driving the Haryana Roadways Bus. Hari Singh (PW3), Rahul Acharya (PW4), Dharam Pal (PW10), and Gaurav (PW12) were travelling in the bus. HC Rajinder Kumar (PW5) conducted a mechanical examination of the buses. Gopal Dass (PW6) took the photographs. SI Mohinder Gill (PW7) investigated the matter. HC Suresh Kumar (PW8) carried the rukka to the Police Station. Ram Kumar (PW9), Harish Kumar (PW10), SI Bhoop Singh (PW13), and Shamay Singh (PW15) witnessed the recoveries. Babu Lal (PW14) is the owner of the bus bearing Registration No. RJ-31P-0049.

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 deposed falsely against him and that he was innocent. He did not produce any evidence in his defence.

6. Learned Trial Court held that there are various contradictions in the statements of the prosecution witnesses. The identity of the driver of the bus bearing Registration No. RJ-31B-0049 was not established. The witnesses stated that the Haryana Roadways bus had hit the Tourist bus bearing

registration number RJ-31P-0049, and this made the prosecution's case doubtful. The prosecution had failed to prove its case beyond reasonable doubt. Hence, the learned Trial Court acquitted the accused.

7. Being aggrieved by the judgment passed by the learned Trial Court, the State has filed the present appeal asserting that the learned Trial Court erred in acquitting the accused. The informant specifically stated that the Tourist bus bearing Registration No. RJ-31P-0049 came at high speed from the opposite direction and hit his bus. His statement was corroborated by Kulbeer Singh (PW2), who was injured in the accident. The other witnesses also proved that the accident occurred because of the negligence of the accused. Learned Trial Court failed to properly appreciate the evidence on record. Hence, 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. Ajit Sharma, learned Deputy Advocate General for the appellant State, and Ms Yogita Dutta, learned counsel for the respondent/accused.

9. Mr Ajit Sharma, learned Deputy Advocate General, for the appellant-State, submitted that the learned Trial Court erred in acquitting the accused. The prosecution witnesses consistently stated that the accident had occurred due to the negligence of the accused. The statements were wrongly discarded by the learned Trial Court. The owner of the bus proved that the accused was employed by him as a driver. He was not cross-examined at all, and his testimony was deemed to be accepted. Learned Trial Court had not properly appreciated the evidence and had taken a view that could not have been taken by any reasonable person. Therefore, he prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

10. Ms Yogita Dutta, learned counsel for the respondent/accused, submitted that the prosecution witnesses contradicted each other on material aspects. The prosecution had failed to prove the precise negligence of the accused, and the mere use of the term 'high speed' is not sufficient to infer the negligence. Learned Trial Court had taken a reasonable view, and this Court should not interfere with the reasonable view of the learned trial Court while deciding an appeal against

acquittal. Hence, she prayed that the present appeal be dismissed. She relied upon the judgments of the *State of HP Vs. Krishan Lal 2025(2) Him L.R. (HC) 1164* and *State of H.P. Vs. Sudhir Urao & ors. 2022(2) Him. L.R.(DB) 1279* in support of her submission.

11. I have given a 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) 5 SCC 433: 2025 SCC OnLine SC 176* that the Court can interfere with a judgment of acquittal if it is patently perverse, is based on misreading of evidence, omission to consider the material evidence and no reasonable person could have recorded the acquittal based on the evidence led before the learned Trial Court. It was observed on page 438:

“24. It could thus be seen that it is a settled legal position that the interference with the finding of acquittal recorded by the learned trial Judge would be warranted by the High Court only if the judgment of acquittal suffers from patent perversity; that the same is based on a misreading/omission to consider material evidence on

record; and that no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

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

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

14. A similar view was taken in *Krishan Lal* (supra) and *Sudhir Urao & ors.* (supra).

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

16. Babu Lal (PW14) stated that he is the owner of the bus bearing Registration No. RJ-31P-0049. He had employed the accused as a driver. His statement that he had employed the

accused as the driver of the bus was not challenged in the cross-examination and is deemed to be accepted. Therefore, his testimony is sufficient to prove that the accused was a driver of the bus on the date of the accident, and the findings recorded by the learned Trial Court that the accused was not proved to be the driver of the bus cannot be sustained.

17. Mahaveer Singh (PW1) stated that when the bus bearing Registration No. HR-55B-7409 reached at Hatwas Petrol Pump, a Tourist bus bearing Registration No. RJ-31P-0049 came from the opposite side at high speed and hit the Haryana Roadways bus. The driver of the Haryana roadways bus was trapped in it. The accident occurred because of the negligence of the accused and the high speed of the Tourist bus bearing Registration No. RJ-31P-0049.

18. Kulbeer Singh (PW2) stated that a Tourist bus bearing Registration No. RJ-31P-0049 came from the opposite side at a high speed and hit the Haryana roadways bus at Hatwas at about 8:45 AM. He and the passengers had sustained injuries in the accident. The accident occurred because of the negligence

of the accused and the high speed of the Tourist bus bearing Registration No. RJ-31P-0049.

19. Hari Singh (PW3) stated that a tourist bus bearing Registration No. RJ-31P-0049 came from the opposite side and hit the Haryana roadways bus at Hatwas Petrol Pump. The accident occurred because of the negligence of the accused and the high speed of the Tourist bus.

20. Rahul Acharya (PW4) did not support the prosecution's case. He stated that he was sleeping at the time of the accident. He specifically denied that the bus was being driven at a high speed. Therefore, no advantage can be derived by the prosecution from his testimony.

21. Dharam Pal (PW10) stated that he was travelling in a Haryana roadways bus. A Tourist bus came from the opposite side and hit the Haryana roadways bus at Hatwas. He sustained injuries in the accident. He was permitted to be cross-examined. He admitted in the cross-examination by the learned Assistant Public Prosecutor that the accident occurred because of the high speed of the tourist bus.

22. Gaurav (PW12) stated that he was travelling in a Haryana roadways bus. A bus of the Rajasthan Government came from the opposite side at high speed and hit the Haryana Roadways bus at Nagrota. The accident occurred because of the negligence of the driver of the Rajasthan Roadways bus.

23. Therefore, it is apparent that all the witnesses have stated that the accident occurred because of the high speed of the bus and the negligence of the accused. No witness has mentioned the approximate speed of the bus or the precise negligence of the accused.

24. 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 amount 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.”

25. This position was reiterated in *State of Karnataka vs. Satish* 1998 (8) SCC 493, and 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.”

26. 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.”

27. 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.”

28. Thus, the accused cannot be held liable based on high speed alone without any further evidence that the accused was in breach of his duty to take care.

29. The statements of the witnesses that the accident occurred because of the negligence of the accused will also not help the prosecution. Negligence is an inference from the fact. A witness can only depose about the fact which had occurred in his presence, and he is not permitted to draw inferences from the facts. The inferences have to be drawn by the Jury or the Judge when he is sitting without a Jury. It was laid down by Goddard LJ

in *Hollington v. Hawthorn* 1943 KB 507 that a witness cannot depose about negligence. It was observed at 595:

“It frequently happens that a bystander has a full and complete view of an accident. It is beyond question that while he may inform the court of everything he saw, he may not express any opinion on whether either or both of the parties were negligent. The reason commonly assigned is that this is the precise question the court has to decide, but in truth, it is because his opinion is not relevant. Any fact that he can prove is relevant, but his opinion is not.”

30. Similar is the judgment in *State of H.P. vs. Niti Raj* 2009 Cr.L.J. 1922 (HP), where it was held:

“It is not necessary for a witness to say that the driver of an offending vehicle was driving the vehicle rashly. The issue whether the vehicle was being driven in a rash and negligent manner is a conclusion to be drawn on the basis of evidence led before the Court.”

31. Therefore, no advantage can be derived from the statements that the accident had occurred because of the negligence of the accused.

32. A heavy reliance was placed upon the site plan (Ex.PW7/B), in which it was mentioned that 9 ft. of road was available towards the side of the Haryana Roadways bus, and 10 ft. of metalled road and 2½ ft. of unmetalled road were available towards the left side of the Tourist bus. This site plan shows that

the width of the road available to both buses was almost equal, 9 feet and 10 feet. Therefore, this site plan does not establish that the accused was driving the bus in breach of the Rules of Road Regulation.

33. Therefore, the learned Trial Court had taken a reasonable view, and no interference is required with the reasonable view of the learned trial Court, even if another view is possible, while deciding an appeal against acquittal.

34. No other point was urged.

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

35. In view of the provisions of Section 437-A of the Code of Criminal Procedure (Section 481 of Bhartiya Nagarik Suraksha Sanhita, 2023) the respondent/accused is directed to furnish bail bonds in the sum of ₹25,000/- with one surety in the like amount to the satisfaction of the learned Trial Court within four weeks, which shall be effective for six months with stipulation that in the event of Special Leave Petition being filed against this judgment, or on grant of the leave, the respondent/accused on

receipt of notice thereof, shall appear before the Hon'ble Supreme Court.

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

(Rakesh Kainthla)
Judge

8th May, 2026
(Chander)