IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No.195 of 2015
Reserved on: 02.03.2026
Date of Decision: 24.03.2026

Rajeev Kumar **....Petitioner**

Versus

State of Himachal Pradesh **....Respondent**

Coram
Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?[1] *Yes*

For the petitioner	:	Mr. N.S. Chandel, Senior Advocate with M/s Vinod Gupta and Shwetima Dogra, Advocates.
For the Respondent/ State	:	Mr. Lokender Kutlehria, Additional Advocate General.

Rakesh Kainthla, Judge

The present revision is directed against the judgment dated 29.05.2015 passed by learned Additional Sessions Judge, Ghumarwin, District Bilaspur, (Camp at Bilaspur) H.P. (learned Appellate Court) vide which judgment of conviction dated 30.07.2014 and order of sentence dated 05.08.2014, passed by learned Additional Chief Judicial Magistrate, Ghumarwin, District Bilaspur, H.P. (learned Trial Court), were upheld. (*Parties shall hereinafter be referred to in*

[1]. Whether reporters of the local papers may be allowed to see the judgment? Yes

2026:HHC:8493

the same manner as they were arrayed before the learned Trial Court for convenience.)

2. Briefly stated, the facts giving rise to the present revision are that the police presented a challan against the accused before the learned Trial Court for the commission of offences punishable under Sections 279, 337 & 304-A of the Indian Penal Code (IPC) and Section 187 of the Motor Vehicles Act (MV Act). It was asserted that the informant, Gian Chand (PW-1), was going towards his home on 30.01.2006 at about 10:30 am when he reached near a Pulli, a jeep bearing registration No. HP-22-2752 came at a high speed from Balhseena and hit a scooter bearing registration No. HP-23A-1229, which was going from Barthin towards Balhseena. The scooter was dragged for 30-35 feet. Ashwani Kumar, the rider of the scooter, sustained multiple injuries. The driver of the jeep sped away from the scene. Ashwani Kumar was sent to the hospital for treatment. The matter was reported to the police. An entry No.7 (Ext.PW-10/A) was recorded in the Police Station. HC Thakur Dass (PW-11) and Constable Pardeep Kumar went to the spot for verification. ASI Ram Dass (PW-10), HC Raj Kumar (PW-8) and Constable Sashi

2026:HHC:8493

Kant went to search the jeep. An entry (Ext.PW-10/B) was recorded. The jeep was found parked on the roadside in Chakmoh Bazaar at about 1:30 p.m. Subhash Chand (PW-7) also reached on the spot on his vehicle and told ASI Ram Dass (PW-10) that the jeep had hit the scooter and sped away from the spot. Damage was noticed to the bumper and indicator of the jeep. The driver of the jeep revealed his name as Rajeev Kumar (the accused). The police seized the jeep vide memo (Ext.PW-7/A). HC Thakur Dass (PW-11) went to the spot and recorded the informant's statement (PW-1), and sent it to the Police Station, where F.I.R. (Ext.PW-12/A) was registered. HC Thakur Dass (PW-11) investigated the matter. He prepared the site plan (Ext.PW-11/A). Ramesh Kumar (PW-2) took the photographs of the spot (Ext.PW-2/A to Ext.PW2/E) whose negatives are Ext.PW2/F to Ext.PW2/J. HC Thakur Dass (PW-11) seized the scooter and its documents vide memos (Ext. PW-1/B and Ext.PW-3/A). HHC Dev Raj (PW-9) mechanically examined the jeep and the scooter and found that there were no mechanical defects in the vehicles, which could have led to the accident. He issued reports (Ext.PW-9/A and Ext.PW-9/B). Dr Anupam (PW-5) examined victim

2026:HHC:8493

Ashwani Kumar and found that he had suffered multiple injuries, one of which included an internal head injury. He issued MLC (Ext.PW5/B) and he referred the injured to the higher institution. Ashwani Kumar succumbed to his injuries at PGI. ASI Daya Ram (PW-13) conducted the inquest on the dead body and prepared the inquest report (Ext.PW-13/A). An application (Ext.PW13/B) was filed for conducting the post-mortem examination of Ashwani Kumar, and a report (Ext. PX) was obtained. Statements of the prosecution's witnesses were recorded as per their version. The challan was prepared and presented before the learned Trial Court after the completion of the investigation.

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, 337 and 304-A of the IPC and Section 187 of M.V. Act, to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined fourteen witnesses to prove its case. Gian Chand (PW-1) is the informant. Ramesh

2026:HHC:8493

Kumar (PW-2) took the photographs. Dhani Ram (PW-3), Rajender Pal (PW-4) and HC Raj Kumar (PW-8) witnessed the recoveries. Dr Anupam (PW-5) conducted the medical examination of Ashwani Kumar. Jai Dei (PW-6) and Subhash Chand (PW-7) are the eyewitnesses. HHC Dev Raj (PW-9) conducted the mechanical examination of the vehicles. ASI Ram Dass (PW-10) apprehended the jeep. HC Thakur Dass (PW-11) investigated the matter. ASI Shamsher Singh (PW-12) signed the F.I.R. ASI Daya Ram (PW-13) conducted the inquest on the dead body. Rai Singh (PW-14) prepared the challan.

5. The accused, in his statement recorded under Section 313 of Cr.P.C., admitted that he was driving the vehicle bearing registration No. HP-22-2752, and that the jeep and its documents were seized by the police. He denied the rest of the prosecution's case. He stated that he was going from Mehre to Deotsidh. 5-6 persons stopped his vehicle and gave him a beating. They were claiming that he had caused the accident, but this claim was false. He did not produce any evidence in his defence.

2026:HHC:8493

6. Learned trial Court held that the testimonies of Gian Chand (PW-1), Subhash Chand (PW-7) and Jai Devi (PW-6), corroborated each other. The post-mortem report showed that Ashwani Kumar had died due to the injuries sustained by him in the accident. The minor contradictions in these statements were not sufficient to discard the prosecution's case. Hence, the learned trial Court convicted and sentenced the accused as under:-

Sl. No.	Under Section(s)	Period of sentence	Fine	In default of fine
1.	279 of IPC	S.I. for six months	₹1,000/-	S.I. for one month.
2.	304-A of IPC	S.I. for two years	₹2,000/-	S.I. for three months.
3.	187 of M.V.Act	S.I. for one month	₹500/-	S.I. for seven days.

All the 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, Ghumarwin, District Bilaspur, (camp at Bilaspur) H.P. (learned Appellate Court). Learned Appellate Court concurred with the findings recorded by the learned Trial Court that

2026:HHC:8493

statements of Gian Chand (PW-1), Subhash Chand (PW-7) and Jai Dei (PW-6) corroborated each other. They had consistently stated that the accident was caused by the rash and negligent driving of the driver of the jeep. This part of the statement was not challenged in the cross-examination and is deemed to be accepted. The vehicle was being driven towards the wrong side of the road, which was a proximate cause of the accident. Ashwani Kumar succumbed to the injuries sustained by him in the accident. All the ingredients of the commission of offence punishable under Sections 279 and 304-A of the IPC were satisfied. The accused had fled away from the spot and had not taken the injured to the hospital; hence, the ingredients of the commission of an offence punishable under Section 187 of the M.V. Act were also satisfied. The sentence imposed by the learned Trial Court was adequate, and no interference was required with it. Therefore, the appeal filed by the accused 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 entry

in the daily diary did not mention the registration number of the vehicle. The F.I.R. was registered at 2:30 p.m. after the vehicle was apprehended. Learned Courts below erred in holding that the accused had admitted his presence at the place of the accident. The vehicle was apprehended in Chakmoh, whereas the accident had occurred between Shahtlai and Barthin. Statements of Subhash Chand (PW-7) and ASI Ram Dass (PW-10) contradicted each other on material particulars. No person identified the accused in the Court, and identification of the accused was not proper; 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 N.S. Chandel, learned Senior Counsel assisted by M/s Vinod Gupta and Shwetima Dogra, learned counsel for the petitioner and Mr Lokender Kutlehria, learned Additional Advocate General, for the respondent/State.

10. Mr N.S. Chandel, learned Senior Counsel for the petitioner/accused, submitted that the learned Courts below

2026:HHC:8493

erred in appreciating the material on record. The registration number of the vehicle was not mentioned in the daily diary entry recorded by the police. The vehicle was intercepted at Chakmoh. Subhash Chand (PW-7) claimed that he had followed the vehicle, but his statement was contradicted by ASI Ram Dass (PW-10). No person had identified the accused in the Court, and the identification of the accused was not proper; therefore, he prayed that the present petition be allowed and the judgments and order passed by the learned Courts below be set aside.

11. Mr Lokender Kutlehria, learned Additional Advocate General, for the respondent/State, submitted that the accused had not disputed the fact that he was driving the vehicle on the date of the accident, and the question of identification is not relevant. Learned Courts below had rightly held that the accused was driving the vehicle towards the wrong side of the road, which was the proximate cause of the accident. Both the learned Courts below have rightly held that the negligence of the accused caused the accident, and this Court should not interfere with the concurrent findings of fact. Hence, he prayed that the present revision be dismissed.

2026:HHC:8493

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

13. It was laid down by the Hon'ble Supreme Court in ***Malkeet Singh Gill v. State of Chhattisgarh*, *(2022) 8 SCC 204: (2022) 3 SCC (Cri) 348: 2022 SCC OnLine SC 786*** that a revisional court is not an appellate court and it can only rectify the patent defect, errors of jurisdiction or the law. It was observed at page 207:-

> "**10.** Before 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 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.

2026:HHC:8493

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

> "**14.** The power and jurisdiction of the Higher Court under Section 397 CrPC, which vests the court with the power to call for and examine records of an inferior court, is for the purposes of satisfying itself as to the legality and regularities of any proceeding or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law or the perversity which has crept in such proceedings.
>
> **15.** It would be apposite to refer to the judgment of this Court in ***Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460: (2012) 4 SCC (Civ) 687: (2013) 1 SCC (Cri) 986***, where scope of Section 397 has been considered and succinctly explained as under: (SCC p. 475, paras 12-13)
>
> > "*12.* Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error, and it may not be appropriate for the court to scrutinise the orders, which, upon the face of it, bear a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored, or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive

2026:HHC:8493

> classes, but are merely indicative. Each case would have to be determined on its own merits.
>
> *13.* Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order. The Court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injustice ex facie. Where the Court is dealing with the question as to whether the charge has been framed properly and in accordance with law in a given case, it may be reluctant to interfere in the exercise of its revisional jurisdiction unless the case substantially falls within the categories 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 come to its conclusions in the absence of any perversity. It was observed at page 169:

> "**12.** This Court has time and again examined the scope of Sections 397/401 CrPC and the grounds for exercising the revisional jurisdiction by the High Court. In ***State of Kerala v. Puttumana Illath Jathavedan Namboodiri, (1999) 2 SCC 452: 1999 SCC (Cri) 275]***, while considering the scope of the revisional jurisdiction of the High Court, this Court has laid down the following: (SCC pp. 454-55, para 5)

2026:HHC:8493

> *5.* ... In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings to satisfy itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of supervisory jurisdiction exercised by the High Court for correcting a miscarriage of justice. But the said revisional power cannot be equated with the power of an appellate court, nor can it be treated even as a second appellate jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to reappreciate the evidence and come to its conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise 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

2026:HHC:8493

> relevant material or there is palpable misreading of records, the Revisional Court is not justified in setting aside the order, merely because another view is possible. The Revisional Court is not meant to act as an appellate court. The whole purpose of the revisional jurisdiction is to preserve the power in the court to do justice in accordance with the principles of criminal jurisprudence. The revisional power of the court under Sections 397 to 401 CrPC is not to be equated with that of an appeal. Unless the finding of the court, whose decision is sought to be revised, is shown to be perverse or untenable in law or is grossly erroneous or glaringly unreasonable or where the decision is based on no material or where the material facts are wholly ignored or where the judicial discretion is exercised arbitrarily or capriciously, the courts may not interfere with the decision in exercise of their revisional jurisdiction."

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

> **"16.** It is well settled that in the exercise of revisional jurisdiction under Section 482 of the Criminal Procedure Code, the High Court does not, in the absence of perversity, upset concurrent factual findings. It is not for the Revisional Court to re-analyse and re-interpret the evidence on record.
>
> **17.** As held by this Court in ***Southern Sales & Services v. Sauermilch Design and Handels GmbH, (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

2026:HHC:8493

> absence of a jurisdictional error. The answer to the first question is, therefore, in the negative."

17. A similar view was taken in ***Sanjabij Tari v. Kishore S. Borcar, 2025 SCC OnLine SC 2069,*** wherein it was observed:

> "**27.** It is well settled that in exercise of revisional jurisdiction, the High Court does not, in the absence of perversity, upset concurrent factual findings [See: ***Bir Singh*** (supra)]. This Court is of the view that it is not for the Revisional Court to re-analyse and re-interpret the evidence on record. As held by this Court in ***Southern Sales & Services v. Sauermilch Design and Handels GMBH, (2008) 14 SCC 457***, it is a well-established principle of law that the Revisional Court will not interfere, even if a wrong order is passed by a Court having jurisdiction, in the absence of a jurisdictional error.
>
> **28.** Consequently, this Court is of the view that in the absence of perversity, it was not open to the High Court in the present case, in revisional jurisdiction, to upset the concurrent findings of the Trial Court and the Sessions Court.

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

19. The accused admitted in his statement recorded under Section 313 of Cr.P.C. that he was driving the jeep bearing registration No. HP-22-2752, therefore, the accused never disputed that he was the driver of the jeep. 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***

2026:HHC:8493

OnLine SC 421 that the Courts can rely upon the statement of the accused recorded under section 313 of the Cr.P.C. It was observed at page 742:

> **"51.** That brings us to the question of 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

2026:HHC:8493

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

2026:HHC:8493

> sub-section (4), asd 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 aforestated observations apply with equal force."

20. It was laid down 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***, that the statement made by the accused under Section 313 of Cr.P.C. can be used to lend credence to the evidence led by the prosecution, but 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

2026:HHC:8493

> 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, 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)

21. 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 of Cr.P.C., insofar as it supports the prosecution's

case, can be used against him for recording 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 benefit 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."

22. 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 of the 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

2026:HHC:8493

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 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

2026:HHC:8493

> 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."

23. Informant Gian Chand (PW-1) stated that a jeep bearing registration No. HP-22-2752 was going from Balhseena towards Barthin on 30.1.2006 at about 10:30 am. A scooter bearing registration No. HP-23A-1229 was going from Balhseena to Malari. The jeep hit the scooter and dragged it for 30-35 feet. The scooterist, Ashwani Kumar, sustained an injury on his forehead. The accident occurred because of the negligence and high speed of the jeep driver, who had sped away from the spot. He stated in his cross-examination that he was going towards Balhseena, and the jeep was coming from the opposite side. He denied that the jeep driver was driving it at a normal speed, one tyre of the jeep was on the Kachha portion of the road, and the jeep driver had swerved the jeep towards his side. He denied that the jeep driver had tried to save the scooterist. He denied that

he was making a false statement because he is related to the victim.

24. The suggestions made to this witness that the jeep driver tried to save the scooterist, and the jeep driver had taken the vehicle towards the Kachha portion of the road show that the presence of the accused on the spot is not disputed. These facts could have only been suggested if the accused was present on the spot. It was laid down by the Hon'ble Supreme Court in ***Balu Sudam Khalde v. State of Maharashtra, (2023) 13 SCC 365: 2023 SCC OnLine SC 355*** that the suggestion put to the witness can be taken into consideration while determining the innocence or guilt of the accused. It was observed at page 383:-

> "**38.** Thus, from the above, it is evident that the suggestion made by the defence counsel to a witness in the cross-examination, if found to be incriminating in nature in any manner, would definitely bind the accused, and the accused cannot get away on the plea that his counsel had no implied authority to make suggestions in the nature of admissions against his client.
>
> **39.** Any concession or admission of a fact by a defence counsel would definitely be binding on his client, except for the concession on the point of law. As a legal proposition, we cannot agree with the submission canvassed on behalf of the appellants that an answer by

> a witness to a suggestion made by the defence counsel in the cross-examination does not deserve any value or utility if it incriminates the accused in any manner.
>
> ****
>
> **42.** Therefore, we are of the opinion that suggestions made to the witness by the defence counsel and the reply to such suggestions would definitely form part of the evidence and can be relied upon by the Court along with other evidence on record to determine the guilt of the accused."

25. Subhash Chand (PW-7) stated that he was going towards Panoul on 30.01.2006. A jeep bearing HP-22-2752 was moving ahead of his car. A scooter came from Berthin. The driver of the jeep hit the scooter on the wrong side of the road, and the scooter fell. The driver of the jeep sped away from the spot. He followed the jeep and intercepted it at Chakmoh Bazar. The driver identified himself as Rajeev Kumar, who was present in the Court. He slapped the accused and enquired as to why he had run away from the spot. The accused replied that he had got afraid. He informed the police, who reached the spot and seized the jeep.

26. He stated in his cross-examination that he had opened the shop at about 6:00 a.m. on 30.01.2006. He denied that he was present in the shop during the whole day. He volunteered to say that he remained in the shop till 10:00 a.m.

2026:HHC:8493

He left the shop at about 10:12 a.m. in his vehicle bearing registration no. HP-23A-2680. He was alone. He denied that the scooterist was driving the scooter at a high speed, and the accused was not driving the jeep. He denied that the driver of the jeep had tried to save the scooterist. He denied that the accident had occurred due to the negligence of the scooterist. He stated that he had reached Chakmoh at 11:15 a.m. He called the police telephonically. He was not aware that Gian Chand (PW-1) had called the police. He denied that he was making a false statement.

27. ASI Ram Dass (PW-10) stated that he searched for the jeep and found that it was parked on the roadside. The driver was sitting inside the vehicle. Subhash Chand (PW-7) also reached the spot and disclosed that the jeep had hit the scooter near Malari.

28. It was submitted that there are contradictions in the statements of Subhash Chand (PW-7) and ASI Ram Dass (PW-10). Subhash Chand stated that he had intercepted the jeep and called the police, whereas ASI Ram Dass stated that he had found the jeep parked on the road, and Subhash Chand

2026:HHC:8493

came to the spot subsequently. This submission will not help the accused. Subhash Chand specifically stated that he had followed the jeep after the accident, intercepted it at Chakmoh and informed the police. This is corroborated by the entry (Ext.PW-10/B), which mentions that ASI Ram Dass (PW-10) had left the Police Station at 11:00 a.m. No reason has been assigned for leaving the Police Station at 11:00 a.m. Entry No. 7 (Ext.PW-10/A) was recorded in Police Station Talai at 10:30 am, in which it was mentioned that the jeep had sped towards Barthin. ASI Ram Dass (PW-10) did not leave the police station at 10:30 a.m but at 11:00 a.m without any explanation. Hence, the explanation provided by Subhash Chand that he had informed the police telephonically, after which the police came to the spot, appears to be probable, and the testimony of ASI Ram Dass that he went to Chakmoh without any reason and found the jeep parked on the spot cannot be accepted.

29. Jai Dei (PW-6) stated that she was going to Balhseena. The informant, Gian Chand (PW-1), was walking two steps ahead of her. A jeep came from Talai, and a scooter came from Malari. The jeep hit the scooter. She signalled the driver of the jeep to stop, but he sped away. She could not

2026:HHC:8493

identify the accused in the Court. She stated in her cross-examination that she was going to Depot on 30.01.2006. She denied that the jeep driver was driving the jeep at a normal speed, and the scooterist was driving the scooter at a high speed. She denied that the scooterist was moving in the middle of the road, and the driver of the jeep had taken it on the Kachha portion of the road.

30. Her statement also establishes that the jeep had hit the scooter. The defence version that the jeep was taken towards the Kachha portion of the road was not admitted by her. The mere fact that she has not identified the jeep driver will not help the accused because his identity is duly proved on record, as noticed above.

31. Subhash Chand (PW-7) specifically stated that the jeep had hit the scooter on the wrong side of the road. His testimony is duly corroborated by the site plan (Ext.PW-11/A) in which the width of the road is shown to be 10 feet, and the road towards the left side of the scooter is shown as 2½ feet, whereas the road towards the right side of the scooter is shown as 10 feet. The photographs (Ext.PW-2/A to Ext.PW-

2/F) also show the scooter lying towards the left side of the road.

32. Thus, it is evident that the scooter was being driven towards the left side, leaving only 2½ feet of space, whereas the jeep was being driven towards the right side, leaving 10 feet of space towards its left side.

33. The Central Government has framed the Rules of the Road Regulations, 1989, to regulate the movement of traffic. Rule 2 provides that the driver of a vehicle shall drive the vehicle as close to the left side of the road as may be expedient and shall allow all the traffic which is proceeding in the opposite direction to pass on his right side. It was laid down in ***Fagu Moharana vs. State, AIR 1961 Orissa 71,*** that driving the vehicle on the right side of the road amounts to negligence. It was observed:

> "The car was on the left side of the road, leaving a space of nearly 10 feet on its right side. The bus, however, was on the right side of the road, leaving a gap of nearly 10 feet on its left side. There is thus no doubt that the car was coming on the proper side, whereas the bus was coming from the opposite direction on the wrong side. The width of the bus is only 7 feet 6 inches, and as there was a space of more than 10 feet on the left side, the bus could easily have

> avoided the accident if it had travelled on the left side of the road."

34. Similarly, it was held in ***State of H.P. Vs. Dinesh Kumar 2008 H.L.J. 399***, that where the vehicle was taken towards the right side of the road, the driver was negligent. It was observed:

> "The spot map Ext. P.W. 10/A would show that at point 'A on the right side of the road, there were blood stain marks and a V-shape slipper of deceased Anu. Point 'E' is the place where P.W. 1 Chuni Lal was standing at the time of the accident, and point 'G' is the place where P.W. 3 Anil Kumar was standing. The jeep was going from Hamirpur to Nadaun. The point 'A' in the spot map Ext. P.W. 10/A is almost on the extreme right side of the road."

35. This position was reiterated in ***State of H.P. vs. Niti Raj 2009 Cr.L.J. 1922,*** and it was held:

> "16. The evidence in the present case has to be examined in light of the aforesaid law laid down by the Apex Court. In the present case, some factors stand out clearly. The width of the pucca portion of the road was 10 ft. 6 inches. On the left side, while going from Dangri to Kangoo, there was a 7 ft. kacha portion, and on the other side, there was an 11 ft. kacha portion. The total width of the road was about 28 ft. The injured person was coming from the Dangri side and was walking on the left side of the road. This has been stated both by the injured as well as by PW-6. This fact is also apparent from the fact that after he was hit, the injured person fell into the drain. A drain is always on the edge of the road. The learned Sessions Judge held, and it has also been argued before me, that nobody has

2026:HHC:8493

> stated that the motorcycle was on the wrong side. This fact is apparent from the statement of the witnesses, who state that they were on the extreme left side, and the motorcycle, which was coming from the opposite side, hit them. It does not need a genius to conclude that the motorcycle was on the extreme right side of the road and therefore on the wrong side."

36. In the present case, the jeep driver had breached the Rules of the Road Regulations, which led to the accident; therefore, the learned Courts below had rightly held the accused negligent.

37. It was submitted that the registration number of the jeep was not known to the police, and it was mentioned after the accused was apprehended. This submission cannot be accepted. HC Thakur Dass (PW-11) made an application (Ex. PW5/A) for obtaining the MLC and seeking the opinion whether the injured was fit to make the statement. It was specifically mentioned in the application that the jeep bearing registration number HP-22-2752 had hit scooter bearing registration number HP-23-1229. Doctor Anupam (PW5) conducted the medical examination at 10:45 am. Thus, the registration number of the jeep was known to the police before 10:45 am and the submission that the registration

number was introduced after the apprehension of the jeep at 1:30 pm cannot be accepted.

38. HHC Dev Raj (PW-9) conducted the mechanical examination of the jeep and issued a report (Ext.PW9/A), in which he mentioned that the left side of the bumper and indicator of the jeep were damaged. This corroborates the version that the jeep had hit the scooter. No explanation has been provided for the damage to the bumper and the indicator, and the explanation that the damage was caused by the impact has to be accepted as correct.

39. Therefore, the learned Courts below had rightly held that the vehicle bearing registration No. HP-22-2752, being driven by the accused, was involved in the accident, which was caused by the negligence of the accused.

40. Dr Anupam Sharma (PW-5) medically examined Ashwani Kumar and found that he had suffered multiple injuries, which could have been caused in a motor vehicle accident. Ashwani Kumar subsequently succumbed to his injuries. Post mortem report (Ext. PX) was admitted by the learned counsel for the accused as per his statement recorded

by the learned Trial Court. The report mentioned the cause of death as craniocerebral damage consequent upon blunt trauma to the head, which was possible in road side accident. This report corroborates the prosecution's version that Ashwan Kumar had died in a motor vehicle accident, and the learned Courts below had rightly held that the negligence of the accused had led to the death of Ashwani Kumar.

41. Section 134 of the M.V. Act provides that where any person is injured as a result of the accident, the driver of the motor vehicle shall take all reasonable steps to secure medical attention for the injured. Section 187 of the M.V Act provides punishment for violating Section 134 of the M.V. Act.

42. In the present case, the jeep being driven by the accused had caused the accident and he was under an obligation to take the injured to the hospital, but he failed to do so, and he was rightly held guilty for the commission of an offence punishable under Section 187 of the M.V. Act.

43. Learned Trial Court sentenced the accused to undergo simple imprisonment for two years, pay a fine of ₹2,000/- and in default of payment of fine to undergo

2026:HHC:8493

further simple imprisonment for three months for the commission of an offence punishable under Section 304-A of IPC. It was laid down by the Hon'ble Supreme Court in ***Dalbir Singh Versus State of Haryana (2000) 5 SCC 82*** that a deterrent sentence is to be awarded to a person convicted of rash or negligent driving. It was observed:

> "11. Courts must bear in mind that when any plea is made based on S. 4 of the PO Act for application to a convicted person under S. 304-A of I.P.C., road accidents have proliferated to an alarming extent, and the toll is galloping up day by day in India and that no solution is in sight nor suggested by any quarters to bring them down. When this Court lamented two decades ago that "more people die of road accidents than by most diseases, so much so the Indian highways are among the top killers of the country, the saturation of accidents was not even half of what it is today. So V. R. Krishna Iyer, J., has suggested in the said decision, thus :
>
> > "Rashness and negligence are relative concepts, not absolute abstractions. In our current conditions, the law under S. 304-A, I.P.C. and under the rubric of negligence, must have due regard to the fatal frequency of rash driving of heavy-duty vehicles and speeding menaces."
>
> 12. In ***State of Karnataka v. Krishna alias Raju (1987) 1 SCC 538*** this Court did not allow a sentence of fine, imposed on a driver who was convicted under S. 304-A, I.P.C. to remain in force although the High Court too had confirmed the said sentence when an accused was convicted of the offence of driving a bus callously and causing the death of a human being. In that case, this Court enhanced the sentence to rigorous imprisonment for six months besides imposing a fine.

2026:HHC:8493

> 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."

44. 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

2026:HHC:8493

> 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]***.

45. 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."

46. In the present case, a precious life was lost due to the act of the petitioner. He failed to secure medical aid for the injured and sped away from the spot. Hence, in these circumstances, a deterrent view was justified, and no interference is required with the sentence imposed by the learned Trial Court.

2026:HHC:8493

47. Learned Trial Court had also sentenced the accused to undergo simple imprisonment for six months, pay a fine of ₹1000/- and in default of payment of fine to further undergo simple imprisonment for one month for the commission of an offence punishable under Section 279 of IPC; Simple imprisonment for one month pay a fine of ₹500/- and in default of payment of fine to further undergo simple imprisonment for seven days for the commission an offence punishable under Section 187 of M.V. Act. These sentences cannot be said to be excessive, considering the fact that the accident was caused by the negligence of the petitioner/ accused, and he had sped away from the spot.

48. No other point was urged.

49. In view of the above, the present revision fails and it is dismissed.

50. A copy of the judgment, along with records of the learned Courts below, be sent back forthwith.

(Rakesh Kainthla)
Judge

24th March, 2026.
(ravinder)