

Wazir Mohammad vs State Of Himachal Pradesh on 13 October, 2026

2026:HHC:45060

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No. 56 of 2014

Reserved on: 05.10.2026

Date of Decision: 13.10.2026

Wazir Mohammad

.... Petitioner

Versus

State of Himachal Pradesh

.... Respondent

of

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?^{rt}1

No.

For the petitioner

: Mr Ashok Kumar, Advocate.

For the Respondent/
State :

Mr Ajit Sharma, Deputy
Advocate General.

Rakesh Kainthla, Judge

The present revision is directed against the judgment dated 03.01.2014, passed by the learned Sessions Judge, Sirmour District at Nahan, H.P. (learned appellate Court), vide which the judgment of conviction dated 20.12.2012 and order of sentence dated 21.12.2012, passed by learned Chief Judicial Magistrate, Sirmour District at Nahan, H.P. (learned trial Court) were upheld. (The parties shall 1 . Whether reporters of the local papers may be allowed to see the judgment? Yes ::: Downloaded on - 13/10/2026 21:45:02 ::: CIS 2 hereinafter be referred to in the same manner as they were arrayed before the learned trial Court for convenience).

2. Briefly stated, the facts giving rise to the present .

revision are that the police presented a challan before the learned trial Court against the accused for the commission of offences punishable under [Sections 279, 337](#) and [304-A](#) of the Indian Penal Code ([IPC](#)) and [Sections 185](#) and [196](#) of the Motor of Vehicles Act (M.V. Act). It was asserted that the informant, Babu Ram (PW-5), and his father Sadhu Ram (since deceased) rt were going from Delhi Gate towards Bada Chowk Nahan on 30.05.2009. They reached Hindu Ashram at about 04:40 p.m. A motorcycle bearing registration no. HP-17A-0566 came from Delhi Gate at high speed and hit Sadhu Ram, who fell and sustained injuries. The motorcycle

driver identified himself as Wazir Mohammad (the present accused). The accident occurred because of the negligence of the accused.

The matter was reported to the police, and the police recorded an entry (Ext.PW-8/A) in the Police Station. HC Rajeev Kumar (PW-13) went to the hospital for verification. He filed an application (Ext.PW-13/A) for conducting the medical examination of Sadhu Ram. Dr Sanjay Sharma (PW-10) :: Downloaded on - 13/10/2026 21:45:02 :: CIS 3 examined Sadhu Ram and found that he had sustained injuries on his head. Dr Sanjay advised an X-ray and issued the MLC (Ext.PW-10/B). He also examined the accused and .

found that he smelled of alcohol and had slurred speech. The accused also had a contusion over the right knee joint with fresh blood. Dr Sanjay Sharma (PW-10) preserved blood and urine samples of the accused, sealed them and handed them over to the police official accompanying the accused. He issued a report (Ext.PW10/A). HC Rajeev Kumar recorded the informant's statement (Ext. PW-5/A) and sent it to the Police Station, where FIR (Ext.PW-13/B) was registered. HC Rajeev Kumar prepared the site plan (Ext.PW-13/E). He seized the motorcycle bearing registration no. HP-17A-0566 vide memo (Ext.PW7/A). HHC, Krishan Kumar (PW-12) took the photographs (Ext. PW12/1 to Ext. PW12/10). ASI Amar Singh (PW-11) conducted the mechanical examination of the motorcycle and found no defect in it that could have led to the accident. He issued the report (Ext. PW-11/A). Sadhu Ram succumbed to his injuries. ASI Kewal Singh (PW-9) conducted the inquest on the dead body and issued the report (Ext.PW-

9/A). He filed an application (Ext.PW-9/B) for conducting the :: Downloaded on - 13/10/2026 21:45:02 :: CIS 4 postmortem examination of the deceased. Dr Pankaj Gaur (PW-6) conducted the postmortem examination and found that the cause of death was asphyxia and shock as a result of .

chest and head injury. He issued the report (Ext. PW6/A). He preserved the viscera of the deceased and handed it over to the police official accompanying the dead body. The result of the analysis (Ext. PX) was issued stating that no alcohol or of poison was detected in the viscera of the deceased. Report (Ext. PY) stated that the blood of the accused had 116.15 mg% rt and the urine of the accused had 31.67 mg% alcohol in them.

The statements of witnesses were recorded as per their version, and after the completion of 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 [Section 279](#) & [304-A](#) of IPC and Sections 185 & 196 of the M V Act, to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined 13 witnesses to prove its case. Pasha (PW-1) did not support the prosecution case. Budh :: Downloaded on - 13/10/2026 21:45:02 :: CIS 5 Ram (PW-2) witnessed the handing over of the dead body.

Babbar Khan (PW-3) is the owner of the motorcycle, who had executed a special power of attorney in favour of the accused.

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Mukesh Bansal (PW-4) did not support the prosecution case.

Babu Ram (PW-5) is the informant/eyewitness. Dr Pankaj Gaur (PW-6) conducted the postmortem examination of Sadhu Ram. Sanjay Kumar (PW-7) witnessed the recovery.

of Constable Ravinder Singh (PW-8) proved the entry in the daily diary. ASI Kewal Singh (PW-9) conducted the inquest on the dead body and obtained the postmortem report. Dr. Sanjay Sharma (PW-10), conducted the medical examination of the injured and the accused. ASI Amar Singh (PW-11) mechanically examined the motorcycle. HHC Krishan Kumar (PW-12) took the photographs. HC Rajeev Kumar (PW-13) investigated the matter.

5. The accused, in his statement recorded under [Section 313](#) of the Code of Criminal Procedure ([CrPC](#)), admitted that he was driving the motorcycle bearing registration No. HP-17A-0560 on 30.05.2009, at about 04:40 p.m. He denied the rest of the prosecution case. He stated that :: Downloaded on - 13/10/2026 21:45:02 :: CIS 6 a false case was made against him to claim compensation. He did not produce any evidence in his defence.

6. Learned trial Court held that the informant's .

testimony that he and the deceased were walking on the road and the motorcycle being driven by the accused had hit Sadhu Ram was duly proved on record. The mere fact that independent witnesses have not supported the prosecution of case is not sufficient to acquit the accused. The accident had occurred at a crowded place, and the accused should have been careful while driving the motorcycle. The defence taken by the accused that the deceased had fallen himself was not probable. The blood sample of the accused contained 116.15 mg% alcohol, which is more than the prescribed limit. The accused failed to produce the insurance certificate. The medical evidence proved that Sadhu Ram had died because of the ante mortem injuries that could have been caused in a roadside accident. The prosecution had succeeded in proving its case beyond reasonable doubt. Hence the learned trial Court convicted and sentenced the accused as under:

Section(s) Sentence(s) 279 of [IPC](#) The accused was sentenced to undergo :: Downloaded on - 13/10/2026 21:45:02 :: CIS 7 simple imprisonment for three months, pay a fine of ₹500/- and, in default of payment of the fine, to further undergo simple imprisonment for 15 days.

304-A of The accused was sentenced to undergo [IPC](#) simple imprisonment for one year , pay a fine of ₹1000/- and in default of payment of the fine, to further undergo simple imprisonment for one month.

185 of M.V. The accused was sentenced to undergo of simple imprisonment for three months, pay a fine of ₹500/- and in default of payment of the fine, to further undergo simple imprisonment for 15 days.

196 of M.V. The accused was sentenced to pay a Act fine of ₹300/-; in default of payment of fine, to further undergo simple imprisonment of 10 days.

All the substantive 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 Sessions Judge, Sirmour District at Nahan, H.P. (learned appellate Court). The learned appellate Court concurred with the findings recorded by the learned trial Court that the informant's statement was credible, and there was nothing in his cross-examination to show that he had made a false statement. The testimony of the Medical :: Downloaded on - 13/10/2026 21:45:02 :: CIS 8 Officer proved that the accused was found under the influence of alcohol. This was duly corroborated by the report of the FSL, in which 116.15 mg% alcohol was found in the blood of .

the accused. The mechanical report proved that the motorcycle had no defect that could have led to the accident.

The learned trial Court had rightly convicted and sentenced the accused, and no interference was required with the of judgment and order passed by the learned trial Court.

8. Being aggrieved by the judgments and order passed by learned Courts below, the accused has filed the present revision asserting that learned Courts below erred in appreciating the evidence on record. The statements of witnesses contradicted each other. The independent witnesses had not supported the prosecution case. The defence version that the victim had fallen himself was highly probable, and the learned trial Court erred in rejecting this version. There was a delay in reporting the matter to the police, which has not been explained. Therefore, it was prayed that the present revision be allowed and the judgments and order passed by learned courts below be set aside.

9. I have heard Mr Ashok Kumar, learned counsel for the petitioner and Mr Ajit Sharma, learned Deputy Advocate General for the respondent/State.

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10. Mr Ashok Kumar, learned counsel for the petitioner, submitted that the independent witnesses had not supported the prosecution case, and the learned trial Court erred in relying upon the informant's testimony. The defence of taken by the accused that the deceased had fallen himself was highly probable. The use of the term high speed is not rt sufficient to infer negligence. These aspects were ignored by the learned Courts below. Hence, he prayed that the present revision be allowed and the judgments and order passed by the learned Courts below be set aside.

11. Mr Ajit Sharma, learned Deputy Advocate General for the respondent/State, submitted that the learned Courts below have consistently held that the testimonies of the prosecution witnesses are reliable. This is a pure finding of fact, and the Court should not interfere with the pure finding of facts while exercising revisional jurisdiction. Hence, he prayed that the present revision be dismissed.

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

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13. It was laid down by the Hon'ble Supreme Court in Kuntegowda v. Thurubaiah, 2026 SCC OnLine SC 1485 that a revisional court does not act as an appellate court and it can only determine the correctness, legality and propriety of the of findings, sentence and order recorded by the lower court. It was observed: -

rt "7. Before parting, we would like to accentuate upon the revisional jurisdiction of the High Courts and the contours and inherent limits while exercising powers as a revisional authority. [Section 397](#) of the Criminal Procedure Code, 1973 (now, Section 438 of Bharatiya Nagarik Suraksha Sanhita, 2023) encapsulates the power of High Courts and Sessions Courts to examine the correctness, legality or propriety of any order passed by an inferior criminal court. The said Section is extracted as hereunder:

"438. Calling for records to exercise powers of revision.--(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying 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, and may, when calling, for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement :::

Downloaded on - 13/10/2026 21:45:02 :::CIS 11 that he be released on his own bond or bail bond pending the examination of the record. Explanation. --All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to .

be inferior to the Sessions Judge for the purposes of this subsection and of section 439. (2) The powers of revision conferred by sub-

section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

of (3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of rt them."

Discretion in the exercise of revisional jurisdiction should be exercised within the four corners of this section whenever there has been miscarriage of justice. However, while exercising power under this section, the Court does not act as an appellate Court and therefore, while considering the legality, propriety or the correctness of a finding or a conclusion, the revisional court does not and should not dwell upon the facts and the evidence of the case as an appellate Court. The court, in revision, considers the material only to satisfy itself about the correctness, legality and propriety of the findings, sentence and order recorded by the lower court, and should refrain from substituting its conclusion on an elaborate consideration of evidence, and the findings of the lower courts should not be reversed merely on the ground that an alternative view is possible on the facts of the case. In this case, such a position did not also emanate from the evidence on record.

7.1. This Court, in the [State of Maharashtra v. Jagmohan Singh Kuldip Singh Anand](#), (2004) 7 SCC 659: 2004 SCC (Cri) 2003, observed that the High Court, in exercise of :: Downloaded on - 13/10/2026 21:45:02 :: CIS 12 its revisional jurisdiction, cannot embark upon an in- depth roving re-examination of the oral evidence and medical evidence and come to a conclusion contrary to the consistent one reached by two courts below. In the facts of the present case, in the impugned judgment, .

the High Court gravely erred in upsetting the concurrent findings of conviction of the trial court and the Appellate Court by substituting its own conclusions and reasoning on the merits of the case and thereby erred in setting aside the well-reasoned and correct judgment and orders of the trial and appellate courts. 7.2. Upon perusal of the impugned judgment and order of dated 06.10.2023, it is apparent that the High Court went into great detail into each of the testimonies, documents and merits of the case which could have been avoided, especially when the subject matter had rt come under its revisional jurisdiction. Instead, acting as an appellate Court, the High Court deemed it fit to go into the merits of the case, something which is generally impermissible unless a glaring contradiction is apparent on the face of the record. 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:

"5. ... In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying 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 own conclusion on the same when the evidence has already been appreciated by the :: Downloaded on - 13/10/2026 21:45:02 :: CIS 13 Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to a gross miscarriage of justice. On scrutinising the impugned judgment of the High Court from the .

aforesaid standpoint, we have no hesitation in coming to the conclusion that the High Court exceeded its jurisdiction in interfering with the conviction of the Respondent by reappreciating the oral evidence. ..."

7.3. The contours for exercise of revisional jurisdiction have been well settled by the judicial dicta of this Court of wherein time and again it has been observed that the High Court shall not interfere with the orders of the lower court unless:

- i. The order or finding of the lower court is perverse, rt grossly erroneous, glaringly unreasonable or wholly unreliable or untenable in law.
- ii. The lower court has passed the impugned order after considering immaterial or irrelevant material or no material at all.
- iii. There is a non-consideration of any relevant material or the judicial discretion has been exercised arbitrarily or capriciously.

7.4. This Court, in [Sanjabij Tari v. Kishore S. Borcar](#), 2025 INSC 1158, in similar facts and circumstances wherein the High Court had reversed concurrent findings of conviction under [Section 138](#) of NI Act, while setting aside the impugned order, observed as under:

"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. This Court is of the view that it is not for the Revisional Court to reanalyse 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-

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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."

7.5. In the facts of the present case, we find that the High Court has failed to highlight any reason or material satisfaction to the effect that there was any of such glaring contradiction or perversity apparent on the face of the record so as to justify the exercise of the powers under revisional jurisdiction and thereby erred in interfering with the judgment and orders of the rt courts below. Therefore, the present appeal has to be allowed by setting aside the impugned order of the High Court. In view of the aforesaid discussion, we are of the view that the High Court committed an error in setting aside the order of conviction in exercise of revisional jurisdiction. No sufficient ground has been mentioned by the High Court in its judgment to enable it to exercise its revisional jurisdiction for setting aside the conviction.

14. The present revision has to be decided as per the judgment.

15. The informant Babu Ram (PW-5) stated that he had gone to Bazaar with his parents on 30.05.2009. A motorcycle bearing Registration no. HP17A-0566 came at high speed near Hindu Ashram and hit the informant's father, who fell and sustained injuries. The accused, Wazir ::: Downloaded on - 13/10/2026 21:45:02 :::CIS 15 Mohammad, was driving the motorcycle on the date of the accident. The occupants of the motorcycle fell after the impact. He stated in his cross-examination that they were .

walking at the time of accident. His father was aged more than 80 years. The accident occurred towards Bada Chowk from Hindu Ashram. He denied that Sadhu Ram was weak, that he fell himself and sustained injuries. The police had visited the of spot after the accident and carried the injured to the hospital.

He admitted that he had filed a claim petition before MACT rt Nahan, H.P. He denied that there was no negligence on the part of the accused.

16. The accused admitted that he was driving the motorcycle bearing registration no. HP17A-0566. Therefore, his testimony that the accused was driving the motorcycle is to be accepted as correct. Dr Sanjay Sharma (PW-10) found that the accused had sustained a contusion, which corroborates the informant's testimony that the motorcyclist had fallen after the accident. The informant's testimony that Sadhu Ram had sustained injuries in a motorcycle accident is duly corroborated by the statement of Dr Sanjay Sharma (PW-

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10), who had found a hematoma on the occipital region, which could have been caused in a motor vehicle accident.

17. There is nothing in the cross-examination of the .

informant to show that he was making a false statement. He admitted in his cross-examination that he had filed a claim petition against the accused which was pending before MACT, Nahan. It was submitted that the witness had deposed falsely of to seek compensation from the accused. This submission cannot be accepted. The testimony of a witness cannot be doubted because he had filed a claim petition, because filing a claim petition is a right of a person. The informant's testimony is duly corroborated by the medical evidence and the site plan, and his testimony cannot be rejected even if it is seen with due care and caution.

18. Dr Pankaj Gaur (PW-6) conducted the postmortem examination of Sadhu Ram. He found a hematoma on the occipital region and a fracture of the ribs. He preserved the viscera and handed them over to the police official accompanying the deceased. The viscera were sent to the FSL, but no traces of alcohol or poison were found. He admitted in :::: Downloaded on - 13/10/2026 21:45:02 ::::CIS 17 his cross-examination that the injury can be caused by a fall on a hard surface.

19. It was submitted that the admissions made by the .

Medical Officers that injuries sustained by Sadhu Ram could have been caused by a fall on a hard and uneven surface corroborate the defence version that Sadhu Ram had fallen himself. This submission is not acceptable. The informant had specifically stated that Sadhu Ram fell after the accident, and the statement made in the cross-examination that the injury can be caused by a fall corroborates this version. In any case, it was [laid down by](#) the Hon'ble Supreme Court in [Ramakant Rai v. Madan Rai](#), (2003) 12 SCC 395: 2003 SCC OnLine SC 1086, that when the testimonies of the witnesses are found credible, the medical evidence pointing to alternative possibilities is not sufficient to discard the prosecution's case. It was observed at page 404:

"22. It is trite that where the eyewitnesses' account is found credible and trustworthy, medical opinion pointing to alternative possibilities is not accepted as conclusive. Witnesses, as Bentham said, are the eyes and ears of justice. Hence, the importance and primacy of the quality of the trial process. Eyewitnesses' accounts would require a careful independent assessment and evaluation for their credibility, which should not be adversely prejudged, making any other :::: Downloaded on - 13/10/2026 21:45:02 ::::CIS 18 evidence, including the medical evidence, the sole touchstone for the test of such credibility. The evidence must be tested for its inherent consistency and the inherent probability of the story; consistency with the account of other witnesses held to be creditworthy;

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consistency with the undisputed facts; the "credit" of the witnesses; their performance in the witness box; their power of observation, etc. Then the probative value of such evidence becomes eligible to be put into the scales for a cumulative evaluation."

20. Thus, the prosecution's case cannot be discarded of because of the alternate hypothesis accepted by the Medical Officer.

21. rt Pasha (PW-1) stated that he came to know during the evening time that an accident had occurred. He was permitted to be cross-examined. He denied that the motorcycle bearing registration no. HP17A-0556 had hit Sadhu Ram. He denied the previous statement recorded by the police. He stated in his cross-examination by the defence that the person who had fallen was coming from the clinic of Dr Pant after taking the medicine. The person had fallen himself and his head started bleeding.

22. Mukesh Bansal (PW-4) stated that he is running a shop at Hindu Ashram. He heard some noise and came out of the shop. He found that an old person had fallen on the road.

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He had not seen any accident. He was permitted to be cross-examined. He denied that he was standing outside his shop.

He denied that a motorcycle hit the old person at a high speed.

He denied that the old person fell after the impact. He denied that the motorcyclists had also fallen on the road. He denied the previous statement recorded by the police.

22. It was submitted that the testimony of these witnesses made the prosecution's case doubtful. This submission cannot be accepted. Pasha and Mukesh Kumar denied the previous statement recorded by the police. HC Rajiv Kumar (PW13) stated that he had recorded the statements of Pasha (Ext. PW13/G) and Mukesh Bansal (Ext. PW-13/F) as per their versions. This part of his testimony was not challenged in the cross-examination, and is to be accepted as correct.

Therefore, Pasha and Mukesh are shown to have made two inconsistent statements: one before the police that an accident had occurred because of the negligence of the accused and the other before the Court that no accident had occurred in his presence. It was [laid down by](#) the Hon'ble Supreme Court in [Sat Paul v. Delhi Admn.](#), (1976) 1 SCC 727 that where a witness has been thoroughly discredited by :::: Downloaded on - 13/10/2026 21:45:02 :::: CIS 20 confronting him with the previous statement, his statement cannot be relied upon. However, when he is confronted with some portions of the previous statement, his credibility is .

shaken to that extent, and the rest of the statement can be relied upon. It was observed:

"52. From the above conspectus, it emerges clearly that even in a criminal prosecution, when a witness is cross-examined and contradicted with the leave of the court by the party calling him, his evidence cannot, as a matter of law, be treated as washed off the record altogether. It is for the Judge of fact to consider in each case whether, as a result of such cross-examination and contradiction, the witness stands thoroughly discredited or can still be believed regarding a part of his testimony. If the Judge finds that in the process, the credit of the witness has not been completely shaken, he may, after reading and considering the evidence of the witness, as a whole, with due caution and care, accept, in the light of the other evidence on the record, that part of his testimony which he finds to be creditworthy and act upon it. If in a given case, the whole of the testimony of the witness is impugned, and in the process, the witness stands squarely and totally discredited, the Judge should, as a matter of prudence, discard his evidence in toto."

23. This Court also took a similar view in *Ian Stilman versus State* 2002(2) ShimLC 16 wherein it was observed:

"12. It is now well settled that when a witness who has been called by the prosecution is permitted to be cross-examined on behalf of the prosecution, such a witness loses credibility and cannot be relied upon by the defence. We find support for the view we have taken from the various authorities of the Apex Court. In [Jagir :::: Downloaded on - 13/10/2026 21:45:02 :::: CIS 21 Singh v. The State \(Delhi Administration\)](#), AIR 1975 Supreme Court 1400, the Apex Court observed:

"It is now well settled that when a witness, who has been called by the prosecution, is permitted to be cross-examined on behalf of the .

prosecution, the result of that course being adopted is to discredit this witness altogether and not merely to get rid of a part of his testimony.

24. It was [laid down by](#) the Hon'ble Supreme Court in [Mahesh v. State of Maharashtra](#), (2008) 13 SCC 271; (2009) 3 SCC of (Cri) 543; 2008 SCC OnLine SC 656 that where the witness had made an inconsistent statement before the police, his testimony before the Court cannot be relied upon. It was observed at page 289:

"49. It is the evidence of PW PSI Dhimole that portion marked "A" appearing in the statement of PW 1 was recorded by him correctly. The defence has not brought on record any evidence to show why the investigating officer had recorded the portion marked "A" of the statement of PW 1

incorrectly. If PW 1, the maker of the complaint, has chosen not to corroborate his earlier statement made in the complaint and recorded during investigation, the conduct of such a witness, for no plausible and tenable reasons pointed out on record, will give rise to doubt as to the testimony of the investigating officer, who had sincerely and honestly conducted the entire investigation of the case. In these circumstances, we are of the view that PW 1 has tried to conceal the material truth from the Court with the sole purpose of shielding and protecting the appellant for reasons best known to the witness and therefore, no benefit could be given to the appellant for :::: Downloaded on - 13/10/2026 21:45:02 ::::CIS 22 unfavourable conduct of this witness to the prosecution."

25. It was held in [Paramjeet Singh v. State of Uttarakhand](#), (2010) 10 SCC 439: 2010 SCC OnLine SC 1087 that

where a witness makes different statements at different times, he does not have any regard for truth and his testimony should be seen with due care and caution. It was observed at page 448:

of "16. The fact that the witness was declared hostile at the instance of the Public Prosecutor and he was not allowed to cross-examine the witness furnishes no justification for rejecting en bloc the evidence of the witness. However, the court has to be very careful, as prima facie, a witness who makes different statements at different times has no regard for the truth. His evidence has to be read and considered as a whole with a view to finding out whether any weight should be attached to it. The court should be slow to act on the testimony of such a witness; normally, it should look for corroboration to his testimony. ([Vide State of Rajasthan v. Bhawani](#) [(2003) 7 SCC 291: 2003 SCC (Cri) 1628].)

26. Therefore, the testimonies of Pasha and Mukesh cannot be used to discard the prosecution's version.

27. The site plan (Ext. PW-13/E) shows that many shops are located on the place of incident. It was submitted that no occupant of the shop was examined, and this made the prosecution case doubtful. This submission cannot be :::: Downloaded on - 13/10/2026 21:45:02 ::::CIS 23 accepted. Pasha (PW-1) and Mukesh Bansal (PW-4) were the occupants of the shops, who have been examined. Further, the prosecution case cannot be doubted because of the non-

examination of independent witnesses. In [Appabhai and another Vs. State of Gujarat](#) AIR 1988 SC 696, the incident had taken place at the bus stand. It was contended that independent witnesses were not examined and the of prosecution case was doubtful. It was held by the Hon'ble Supreme Court that the prosecution case cannot be doubted not due to the non-examination of the independent persons. It was observed:

"11. In light of these principles, we may now consider the first contention urged by the learned counsel for the appellants. The contention relates to the failure of the prosecution to examine independent witnesses. The High Court has examined this contention but did not find any infirmity in the investigation. It is no doubt true that the prosecution has not been able to produce any independent witness to the incident that took place at the bus stand. There must have been several such witnesses. But the prosecution case cannot be thrown out or doubted on that ground alone. The experience reminds us that civilised people are generally insensitive when a crime is committed even in their presence. They withdraw both from the victim and the vigilante. They keep themselves away from the Court unless it is inevitable. They think that a crime, like a civil dispute, is between two individuals or parties and they should not involve themselves. This kind of apathy of the general public is indeed :::: Downloaded on - 13/10/2026 21:45:02 ::::CIS 24 unfortunate, but it is there everywhere, whether in village life, towns or cities. One cannot ignore this handicap with which the investigating agency has to discharge its duties. The court, therefore, instead of doubting the prosecution case for want of independent

witness, must consider the broad spectrum of the prosecution version and then search for the nugget of truth with due regard to probability, if any, suggested by the accused."

28. Thus, the prosecution case cannot be doubted because of the non-examination of the shopkeepers.

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29. ASI Amar Singh (PW-11) conducted the mechanical examination of the motorcycle. He stated that he had not found any defect in the motorcycle that could have led to the accident. It was not suggested to him that the motorcycle had any defect that could have led to the accident. The accused had also not claimed that the motorcycle suffered from some incident, due to which the accident could have been caused.

Thus, the report of the mechanical examination rules out any mechanical defect.

30. The informant specifically stated that the place of incident was a bazaar. This is duly corroborated by the site plan in which many shops are shown. Further, the photographs (Ext.PW-12/1 and Ext.PW-12/2) show that many shops are located at the place of incident. Therefore, the accused was supposed to drive the motorcycle carefully, considering the possibility that people may be walking on the road. However, he had not done so, which led to the accident.

Therefore, learned courts below had rightly held that the accused was negligently driving the vehicle, which led to the accident.

31. Dr Sanjay Sharma (PW-10) found the injuries on the head/occipital region of the deceased. Dr Pankaj (PW-6) found the cause of death as the ante mortem injuries that could have been caused in a motor vehicle accident. This is commensurate with the prosecution case that deceased had fallen after he was hit by the motorcycle. Hence, the prosecution had proved its case beyond reasonable doubt for the commission of offences punishable under [Section 279](#) and [304A](#) of the IPC.

32. Dr Sanjay Sharma (PW-10) preserved the blood and the urine sample of the accused. These were sent to the FSL, and as per the report of analysis, 116.15 mg% alcohol was found in the blood. [Section 185](#) of the MV Act provides that no person shall drive a motor vehicle having alcohol in his blood exceeding 30 mg%. Therefore, the accused was driving the vehicle contrary to the provisions of [Section 185](#) of the MV Act.

33. The Investigating Officer, HC Rajeev Kumar (PW-

13), stated that the accused could not produce any insurance of the vehicle. The accused has also not claimed in his statement recorded under [Section 313](#) of CrPC that he had the valid insurance certificate with him. Thus, the learned trial Court had rightly held him guilty of the commission of offences punishable under [Sections 185](#) and [196](#) of the Motor [Vehicle Act](#).

34. It was submitted that the learned trial Court did not extend the benefit of the [Probation of Offenders Act](#) to the accused. This submission is not acceptable. 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 that 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."

of

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 for 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 motion. 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 :::: Downloaded on - 13/10/2026 21:45:02 :::: CIS 28 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."

35. A similar view was taken in *State of Punjab v.*

of 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 rt 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].

36. 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 :::: Downloaded on - 13/10/2026 21:45:02 :::: CIS 29 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."

37. In the present case, the learned trial Court had imposed simple imprisonment of 1 year for the commission of an offence punishable under [Section 304-A](#) of the IPC. This it cannot be said to be excessive considering that one precious life was lost. Thus, no interference is required with the sentence imposed by the learned Trial Court.

38. No other point was urged.

39. In view of the above, the present petition fails, and it is dismissed.

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

(Rakesh Kainthla) Judge 13th October, 2026.

(Ravinder) ::: Downloaded on - 13/10/2026 21:45:02 :::CIS