

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No. 59 of 2014

Reserved on: 07.08.2026

Date of Decision: 14.08.2026

Madan Lal

...Petitioner

Versus

State of Himachal Pradesh

...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No.

For the petitioner : Ms Sheetal Vyas, Advocate.

**For the Respondent/ : Mr Ajit Sharma, Deputy
State Advocate General.**

Rakesh Kainthla, Judge

The present revision is directed against the judgment dated 04.01.2014, passed by learned Additional Sessions Judge-II, Kangra at Dharamshala, H.P. (learned Appellate Court) vide which the judgment of conviction and order of sentence dated 25.03.2013, passed by learned Chief

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

Judicial Magistrate, Kangra, at Dharamshala, District Kangra, H.P. were upheld (*The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience.*)

2. Briefly stated, the facts giving rise to the present 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 and 304-A of the Indian Penal Code (IPC). It was asserted that the informant Pritam Singh (PW-1) and his brother Mahal Singh (since deceased) were riding the scooter bearing registration No. HP36-5001 on 07.02.2007. They reached 45 miles at about 10:00 a.m. One bus was parked on the road; the passengers were boarding the bus. The informant stopped the scooter at a distance of 3-4 metres from the bus because another bus was coming from Rajhol. An Alto car bearing registration No. HP-22A-0947 hit the scooter from the rear. The scooter fell. The informant and Mahal Singh sustained injuries. The driver of the Alto car revealed his name as Madan Lal. The injured were taken to the hospital. An intimation was given to the police, and entry (Ext.PW-7/A) was recorded in the Police Station.

Inspector Mohinder Singh (PW-13) went to the hospital for verification of the information. He recorded the informant's statement (Ext.PW-1/A) and sent it to the Police Station, where F.I.R. (Ext.PW-9/A) was registered. Inspector Mohinder Singh (PW-13) conducted the inquest on the dead body and prepared the report (Ext.PW-13/A). Dr Chanderdeep Sharma (PW-12) conducted the post-mortem examination of Mahal Singh and found that the cause of death was coma due to head injury. He issued the report (Ext. PW-12/A). The photographs of the dead body (Ext.PW-10/H and Ext.PW-10/G) were taken. Inspector Mohinder Singh (PW-13) went to the spot and prepared the site plan (Ext.PW-13/A). The photographs of the car and scooter (Ext.PW-10/A to Ext.PW-10/H), whose negatives are (Ext.PW10/H to PW-10/Q), were taken. Inspector Mohinder Singh seized the scooter bearing the registration No.HP36-5001 along with the documents vide memo (Ext.PW-1/B). He also seized the Maruti car along with documents vide memo (Ext.PW-3/B). HHC Inderjeet (PW-4) mechanically examined the Alto car and the scooter and did not find any defect in them that could have led to the accident. He issued the report (Ext.PW-4/A). Inspector Mohinder Singh

recorded the statements of witnesses as per their version, and after the completion of investigation, the challan was prepared and presented before the learned trial Court.

3. The 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 IPC, to which he pleaded not guilty and claimed trial.

4. The prosecution examined 14 witnesses to prove its case. Pritam Singh (PW-1) is the informant. Iqbal Singh (PW-2) is the witness to the recovery. Bidhi Chand (PW-3), Rajinder Singh (PW-6) and Surya Kant (PW-14) did not support the prosecution case. HHC Inderjeet (PW-4) mechanically examined the vehicles. Ramesh Chand (PW-5) carried the injured to the hospital. HC Lata Devi (PW-7) and Ashok Kumar (PW-8) proved the entries in the daily diary. ASI Onkar Chand (PW-9) signed the F.I.R. Satish Pathania (PW-10) took the photographs. Mohinder Singh (PW-11) witnessed the recovery. Dr Chanderdeep Sharma (PW-12) conducted the post-mortem examination of the deceased. Inspector Mohinder Singh (PW13) 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 vehicle bearing registration No. Hp22A-0947, which was owned by Surya Kant. He admitted that the informant and his brother had sustained injuries and that they were taken to the hospital. He admitted that his vehicle was mechanically examined and photographs of the vehicle were taken. He stated that the informant's scooter had skidded, which led to the accident. A false case was made against the accused by the informant to save himself. He was driving the car at a speed of 20-25 km per hour. He did not produce any evidence in his defence.

6. The learned trial Court held that the informant's testimony that he had parked the scooter and the Alto car had hit the scooter from the rear was acceptable. The plea taken by the accused that the informant lost control of the scooter and the scooter fell was not established by the cross-examination of the witnesses. The negligence of the accused led to the death of Mahal Singh. Hence, the learned trial Court convicted the accused of the commission of offences punishable under Sections 279, 337, 304A of IPC and sentenced him as under: -

U/s	Sentence	Fine	In default
279 of IPC	Simple imprisonment for six months	500/-	S.I. for 15 days
337 of IPC	Simple imprisonment for six months	500/	S.I. for 15 days
304-A IPC	Simple imprisonment for one year.	2000/	S.I. for three months.
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 Additional Sessions Judge-II, Kangra at Dharamshala, H.P. (learned Appellate Court). The learned Appellate Court concurred with the findings recorded by the learned trial Court that the accused was driving the car at the time of the accident. The car had hit the scooter from the rear. The road was wide, and the accused should have been careful while driving the car to avoid any accident. He failed to do so, which amounted to negligence. The learned trial Court had imposed an adequate sentence, and no interference is

required with the judgment and order passed by the learned trial Court. Hence, the appeal was dismissed.

8. Being aggrieved by the judgments and order passed by the learned Courts below, the accused has filed the present revision, asserting that the learned Courts below erred in appreciating the material on record. The defence taken by the accused that the road was slippery and the scooter had skidded by itself was highly probable. The prosecution has failed to prove any rashness or negligence of the accused. Learned Courts below erred in relying upon the prosecution's version. The sentence imposed by the learned trial Court was excessive, and the benefit of the Probation of Offenders Act should have been granted to the accused. Hence, 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 Ms Sheetal Vyas, learned counsel for the petitioner and Mr Ajit Sharma, learned Deputy Advocate General, for the respondent/State.

10. Ms Sheetal Vyas, learned counsel for the petitioner/accused, submitted that the learned Courts below

proceeded on the basis that the accused was negligent because an accident had taken place. No person has deposed about the precise negligence of the accused. The mechanical report does not show any dent on the car or damage to the rear of the scooter, which makes the prosecution case suspect that the accident had occurred because the car had hit the scooter from the rear. Therefore, she 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, admitted that both the learned Courts below have concurrently held that the car had hit the scooter from the rear. The accused was driving the car, and he was supposed to keep a safe distance from the scooter. The failure to keep a safe distance led to the accident, and learned Courts below had rightly held him guilty of driving the car in a rash and negligent manner. This Court should not interfere with the concurrent finding of facts recorded by learned Courts below while deciding the revision; 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.

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 findings, sentence and order recorded by the lower court. It was observed: -

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

(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 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 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 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 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 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 to come 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 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, 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-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 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 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 Pritam Singh (PW-1) stated that he and his brother Mahal Singh were riding a scooter bearing

registration No. HP36-5001. He found a bus parked at 45 miles. The passengers were getting into the bus. Another bus was coming from the opposite side. Hence, he stopped the scooter at a distance of 4-5 meters from the parked bus. An Alto car hit the scooter from the rear. He, his brother and the scooter fell. His brother died in the accident. The accused was driving the Alto car at the time of the accident.

16. Surya Kant (PW-14), another witness to the accident, who was travelling in the car, has not supported the prosecution case. He stated that when the car reached 45 miles, a bus was parked. The passengers were getting out of it and into it, and another bus was coming from the opposite side. The scooterist lost his balance and fell. He was permitted to be cross-examined, and he denied that the car had hit the scooter, due to which the scooterist fell. Thus, this witness has not supported the prosecution's version.

17. Rajinder Singh (PW-6) was examined as an eyewitness, but he has also not supported the prosecution case. He was permitted to be cross-examined, but denied the previous statement recorded by the police. He stated in his cross-examination that the place of the accident is not visible

from his shop. It had rained heavily, and the road was slippery. Thus, his testimony also does not corroborate the informant's version that the accident had occurred because the scooter was hit from the rear by the car.

18. HHC Inderjeet Singh (PW-4) mechanically examined the vehicle and issued the report (Ext.PW-4/A). He has not mentioned that the car had sustained any damage to it. He mentioned that there was a mark of a dent towards the right side of the shield of the scooter. The front mudguard had a mark of scratching towards the right side.

19. Dr Chanderdeep Sharma (PW-12) found an injury on the right temporal bone of Mahal Singh. The informant stated that the scooter and the scooterist fell. The injuries on the right side and damage to the scooter on the right side show that the injuries and the damage were caused because of the fall.

20. The photographs of the car and the scooter (Ext.PW-10/A and Ext.PW-10/C) do not show any damage to the rear side of the scooter or the front side of the car. The photograph (Ext.PW-10/A) shows the front side of the car in close-up, and no mark/dent is visible on the front bumper or

anywhere else. It was rightly submitted by Ms Sheetal Vyas, learned counsel for the accused, that it is highly unlikely that the scooter or the car would not have sustained any damage in an impact.

21. HHC Inderjeet Singh (PW-4) admitted in his cross-examination that the dent noticed by him on the scooter could have been caused by way of skidding. Thus, his testimony also corroborates the version that the damage could have been caused by means of skidding.

22. The learned Courts below heavily relied upon the informant's testimony to hold that his testimony was cogent and reliable; however, they failed to notice the absence of any damage to the scooter or the car. It is trite to say that men may lie, but circumstances do not, and the absence of any damage to the car and the scooter would make the informant's testimony doubtful that the car had hit the scooter.

23. Therefore, the informant's testimony was not corroborated by any other material on record; rather, the report of the mechanical expert made it doubtful. Learned Courts below failed to appreciate the significance of the report

of the mechanical expert and were swayed by the informant's testimony, which is not sufficient to record conviction as noticed above. Therefore, the judgments and order passed by the learned Courts below cannot be sustained.

24. In view of the above, the present revision petition is allowed, and the judgments and order passed by the learned Courts below are set aside. The accused is acquitted of the commission of an offence punishable under Sections 279, 337 and 304A of the IPC. The fine amount be refunded to him after the expiry of limitation for filing an appeal, if no appeal is filed, and in case of appeal the same be dealt with as per the judgment of the Hon'ble Supreme Court.

25 In view of the provisions of Section 437-A of the Code of Criminal Procedure (Section 481 of Bhartiya Nagarik Suraksha Sanhita, 2023) the petitioner is directed to furnish bail bonds in the sum of ₹50,000/- with one surety of the like amount to the satisfaction of the learned Trial Court which shall be effective for six months with a stipulation that in the event of a Special Leave Petition being filed against this judgment or on grant of the leave, the petitioner on receipt of notice thereof shall appear before the Hon'ble Supreme Court

26. The present revision stands disposed of, so also the pending miscellaneous application(s), if any

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

(Rakesh Kainthla)
Judge

14th August, 2026.
(Ravinder)