IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 269 of 2013
Reserved on: 31.03.2026
Date of Decision: 18.05.2026

State of H.P. ...Appellant

Versus

Chain Singh & another ...Respondents

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?[1] No.

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

For the Respondent : Mr N.S. Chandel, Senior Advocate with M/s Sidharth and Shwetima Dogra, Advocates.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 04.03.2013, passed by the learned Judicial Magistrate, First Class, Jawali, District Kangra, H.P. (learned Trial Court), vide which the respondents (accused before the learned Trial Court) were acquitted of the commission of offences punishable under Sections 41 and 42 of the Indian Forests Act. *(Parties shall*

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

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hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience.

2. Briefly stated, the facts giving rise to the present appeal are that the police presented a challan before the learned Trial Court against the accused for the commission of offences punishable under Sections 41 and 42 of the Indian Forest Act and Section 181 of the Motor Vehicles Act (M.V. Act). It was asserted that the police received secret information on 13.02.2005 that a truck bearing registration No. HP-54-2257 was transporting Khair wood from Bhadukhar Hatli. An entry No. 6 (Ext.PW-15/A) was recorded in the Police Station, ASI Prem Chand (PW-15), ASI Amreek Singh (PW-10), and Constable Bir Chand were sent towards Hatli in a vehicle bearing registration No. HP-7A-2353 being driven by Onkar Chand. A truck bearing registration No. HP-54-2257 reached the spot after some time. The police signalled the driver to stop the truck. The driver identified himself as Chain Singh (accused No.1), and the person sitting beside the driver identified himself as Balbir Singh (accused No.2). The police checked the truck and found Khair logs of different sizes in it. The police asked them for a permit to transport the Khair logs, but they could not produce any permit.

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The police seized the truck vide memo (Ext.PW-10/A). Prem Singh prepared a Rukka (Ext.PW-15/B) and handed it over to LHC Bir Singh with a direction to take it to the Police Station for the registration of the F.I.R. An F.I.R. (Ext.PW-15/C) was registered in the Police Station. Prem Singh investigated the matter. He prepared the site plan (Ext.PW-15/D). Punjab Singh (PW-1) measured the Khair wood and found its volume to be 1.74 cubic meters. He prepared the details (Ext.PW-1/A). The Khair wood was handed over on Sapurdari to the forest officials vide memo (Ext.PW-1/B). Another list (Ext.PW-5/A) of the Khair wood was prepared. The documents of the vehicles were seized vide memo (Ext.PW-10/B). Shashi Pal (PW-9) took the photographs (Ext.PW-9/A-1 to Ext.PW-9/A-5) whose negatives are Ext.PW-9/A-6 to Ext.PW-9/A-7. Accused Chain Singh could not produce his driving license. The statements of witnesses were recorded as per their version. It was found during the investigation that Kashmir Singh had taken the contract of removing the Khair wood in Jungle Ghandra vide Lot No. 103/04-05, and this Khair wood was being transported without any documents. Hence, the charge-sheet was prepared and presented before the learned Trial Court after the completion of the investigation.

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3. Learned Trial Court found sufficient reasons to summon the accused. When the accused appeared, they were charged with the commission of offences punishable under Sections 41 and 42 of the Indian Forests Act, to which they pleaded not guilty and claimed to be tried.

4. The prosecution examined 15 witnesses to prove its case. Punjab Singh (PW-1) and Balwant Singh (PW-5) were present during the measurement of the timber. Sushil Kalia (PW-2) witnessed the recovery. Karnail Singh (PW-3) and Hansraj (PW-4) had sold the Khair trees to Kashmir Singh. Surinder Kumar Sharma (PW-6) proved the procedure for the disposal of the dry Khair trees. Gorakh Singh (PW-7) deposed about the logs and wood of the Khair tree. Raghubir Dass (PW-8) proved that the work was allotted to Laxman Singh and no illicit felling was detected. Shashi Pal (PW-9) took the photographs. ASI Amreek Singh (PW-10) was a member of the police party who had effected the recovery. Dy.S.P. Partap Singh (PW-11) had prepared the challan. S.I. Tara Singh (PW-12) recorded the statements of the witnesses. Sandeep Kumar (PW-13) witnessed the recovery. Amar Singh (PW-14) produced the record. Inspector Prem Singh (PW-15) investigated the matter.

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5. The accused, in their statements recorded under Section 313 of the Code of Criminal Procedure (Cr.P.C), denied the prosecution's case in its entirety. They claimed that a false case was made against them due to suspicion. They did not produce any evidence in defence.

6. Learned Trial Court held that the police had failed to join any independent witnesses. The memo of recovery was not signed by the accused, which made the recovery doubtful; therefore, the learned Trial Court acquitted the accused of the commission of offences punishable under Sections 41 and 42 of the Indian Forest Act.

7. Being aggrieved by the judgment passed by the learned Trial Court, the State has filed the present appeal asserting that the learned Trial Court had failed to appreciate the evidence in proper perspective. The statements of prosecution witnesses were rejected without any cogent reason. Khair wood was released to Kashmir Singh, which proved the recovery of the Khair wood. Learned Trial Court erred in drawing an adverse inference for non-examination of the independent witnesses. The recovery was effected from a lonely place in the middle of the night, and it was not possible to join any independent witness.

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The recovery was effected on the spot, and mere failure to obtain the signatures of the accused was not sufficient to doubt the prosecution's case. Hence, it was prayed that the present appeal be allowed and the judgment of the learned Trial Court be set aside.

8. I have heard Mr Ajit Sharma, learned Deputy Advocate General for the appellant/State and Mr N.S. Chandel, learned Senior Advocate, assisted by M/s Sidharth and Shwetima Dogra, learned counsel for the accused/respondents.

9. Mr Ajit Sharma, learned counsel for the appellant/State, submitted that the learned Trial Court erred in acquitting the accused. The statements of police officials corroborated each other. No reason was assigned in their cross-examination to falsely implicate the accused. The recovery could not have been held to be doubtful because the signatures of the accused were not obtained on the memo. The incident had taken place at a lonely place in the middle of the night, and it was not possible to join any independent person. Therefore, he prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

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10. Mr N.S. Chandel, learned Senior Advocate for the respondent/accused, submitted that the learned Trial Court has assigned cogent reasons while acquitting the accused. The learned Trial Court had taken a reasonable view, and this Court should not interfere with the reasonable view of the learned Trial Court, even if another view is possible. Hence, he prayed that the present appeal be dismissed.

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

12. The present appeal has been filed against a judgment of acquittal. It was laid down by the Hon'ble Supreme Court in ***Surendra Singh v. State of Uttarakhand, 2025 SCC OnLine SC 176: (2025) 5 SCC 433*** that the Court can interfere with a judgment of acquittal if it is patently perverse, is based on misreading/omission to consider the material evidence and reached at a conclusion which no reasonable person could have reached. It was observed at page 440:

> "**12.** It could thus be seen that it is a settled legal position that the interference with the finding of acquittal recorded by the learned trial judge would be warranted by the High Court only if the judgment of acquittal suffers from patent perversity; that the same is based on a

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misreading/omission to consider material evidence on record; and that no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record."

13. This position was reiterated in ***P. Somaraju v. State of A.P., 2025 SCC OnLine SC 2291,*** wherein it was observed:

> " 12. To summarise, an Appellate Court undoubtedly has full power to review and reappreciate evidence in an appeal against acquittal under Sections 378 and 386 of the Criminal Procedure Code, 1973. However, due to the reinforced or 'double' presumption of innocence after acquittal, interference must be limited. If two reasonable views are possible on the basis of the record, the acquittal should not be disturbed. Judicial intervention is only warranted where the Trial Court's view is perverse, based on misreading or ignoring material evidence, or results in a manifest miscarriage of justice. Moreover, the Appellate Court must address the reasons given by the Trial Court for acquittal before reversing it and assigning its own. A catena of the recent judgments of this Court has more firmly entrenched this position, including, *inter alia*, ***Mallappa* v. *State of Karnataka 2024 INSC 104*, *Ballu @ Balram @ Balmukund v. The State of Madhya Pradesh 2024 INSC 258*, *Babu Sahebagouda Rudragoudar* v. *State of Karnataka 2024 INSC 320*, and *Constable 907 Surendra Singh v. State of Uttarakhand 2025 INSC 114*.**"

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

15. Karnail Singh (PW-3) and Hans Raj (PW-4) stated in their cross-examination that Kashmir Singh, Contractor, had stacked the Khair wood at Khatrehar Ghangri da Pul. The police had seized the Khair wood from that place. Neither of these

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witnesses was re-examined to clarify this part of their testimonies. They were put forward as witnesses of truth by the prosecution, and the statements made by them would be binding upon the prosecution. In similar circumstances, when a witness had supported the case of the defence, but was not re-examined by the prosecution to clarify his testimony, it was held in ***Ramsewak v. State of M.P.*, *(2004) 11 SCC 259: 2004 SCC OnLine SC 477*** that the benefit of the discrepancy would go to the defence. It was observed at page 265:

> **"14....** Even assuming that there is some doubt as to the interpretation of this part of his evidence since the same is not clarified by the prosecution by way of re-examination, the benefit of doubt should go to the defence which has, in specific terms, taken a stand that the FIR came into being only after the dead body was recovered...."

16. It was held in ***Javed Masood v. State of Rajasthan*, *(2010) 3 SCC 538: (2010) 2 SCC (Cri) 1176: 2010 SCC OnLine SC 347*** that the defence can take advantage of any statement made in the cross-examination. It was observed at page 543:

> **"20.** In the present case, the prosecution never declared PWs 6, 18, 29 and 30 "hostile". Their evidence did not support the prosecution. Instead, it supported the defence. There is nothing in law that precludes the defence from relying on their evidence.
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> **21.** This Court in ***Mukhtiar Ahmed Ansari v. State (NCT of Delhi) [(2005) 5 SCC 258: 2005 SCC (Cri) 1037]*** observed: (SCC pp. 270-71, paras 30-31)

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> "*30*. A similar question came up for consideration before this Court in ***Raja Ram v. State of Rajasthan [(2005) 5 SCC 272: 2005 SCC (Cri) 1050]***. In that case, the evidence of the doctor who was examined as a prosecution witness showed that the deceased was being told by one *K* that she should implicate the accused or else she might have to face prosecution. The doctor was not declared 'hostile'. The High Court, however, convicted the accused. This Court held that it was open to the defence to rely on the evidence of the doctor, and it was binding on the prosecution.
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> *31*. In the present case, evidence of PW 1 Ved Prakash Goel destroyed the genesis of the prosecution that he had given his Maruti car to the police, in which the police had gone to the Bahai Temple and apprehended the accused. When Goel did not support that case, the accused could rely on that evidence."
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> The proposition of law stated in the said judgment is equally applicable to the facts in hand."

17. Therefore, the statements of these witnesses made the prosecution's case highly suspect that recovery was effected from the truck by the police. It was laid down by the Hon'ble Supreme Court in ***Ghurey Lal v. State of U.P., (2008) 10 SCC 450: 2008 SCC OnLine SC 1154*** that when two versions are appearing on the record, the version in favour of the accused has to be preferred to the version which is in favour of the prosecution. It was observed at page 471:

> **58.** In ***K. Gopal Reddy v. State of A.P. [(1979) 1 SCC 355: 1979 SCC (Cri) 305]*** the Court observed thus: (SCC p. 360, para 9)

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> "9. ... It stems out of the fundamental principle of our criminal jurisprudence that the accused is entitled to the benefit of any reasonable doubt. *If two reasonably probable and evenly balanced views of the evidence are possible, one must necessarily concede the existence of a reasonable doubt.* But, fanciful and remote possibilities must be left out of account. To entitle an accused person to the benefit of a doubt arising from the possibility of a duality of views, the possible view in favour of the accused must be as nearly reasonably probable as that against him. If the preponderance of probability is all one way, a bare possibility of another view will not entitle the accused to claim the benefit of any doubt. It is, therefore, essential that any view of the evidence in favour of the accused must be reasonable, even as any doubt, the benefit of which an accused person may claim, must be reasonable. 'A reasonable doubt, it has been remarked, 'does not mean some light, airy, insubstantial doubt that may flit through the minds of any of us about almost anything at some time or other; it does not mean a doubt begotten by sympathy out of reluctance to convict; it means a real doubt, a doubt founded upon reasons." [Salmond, J. in his charge to the jury in ***R. v. Fantle [1959 Cri L Review 584]*** .] (emphasis supplied)

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63. In ***Bhagwan Singh v. State of M.P. [(2002) 4 SCC 85: 2002 SCC (Cri) 736]*** the Court repeated one of the fundamental principles of criminal jurisprudence that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. The Court observed as under: (SCC p. 89, para 7)

> "7. ... The golden thread that runs through the web of administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. Such is not a jurisdiction

limitation on the appellate court, but Judge-made guidelines for circumspection. The paramount consideration of the court is to ensure that miscarriage of justice is avoided."

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66. In ***State of Karnataka v. K. Gopalakrishna [(2005) 9 SCC 291: 2005 SCC (Cri) 1237],*** while dealing with an appeal against acquittal, the Court observed: (SCC p. 299, para 17)

"*17.* ... In such an appeal, the appellate court does not lightly disturb the findings of fact recorded by the court below. If, on the basis of the same evidence, two views are reasonably possible, and the view favouring the accused is accepted by the court below, that is sufficient for upholding the order of acquittal. However, if the appellate court comes to the conclusion that the findings of the court below are wholly unreasonable or perverse and not based on the evidence on record, or suffer from serious illegality, including ignorance or misreading of evidence on record, the appellate court will be justified in setting aside such an order of acquittal."

67. In ***State of Goa v. Sanjay Thakran [(2007) 3 SCC 755 : (2007) 2 SCC (Cri) 162]*** this Court relied on ***State of Rajasthan v. Raja Ram [(2003) 8 SCC 180: 2003 SCC (Cri) 1965***] (SCC pp. 186-87, para 7) and observed as under: (***Sanjay Thakran case [(2007) 3 SCC 755 : (2007) 2 SCC (Cri) 162***], SCC pp. 767-68, para 15)

"*15.* ... '7. Generally, the order of acquittal shall not be interfered with because the presumption of innocence of the accused is further strengthened by an acquittal. The golden thread that runs through the web of administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. ... The principle to be followed by the appellate court considering the appeal against the judgment of acquittal is to interfere only

> when there are compelling and substantial reasons for doing so. If the impugned judgment is clearly unreasonable, it is a compelling reason for interference."

The Court further held as follows: (SCC p. 768, para 16)

> "*16*. ... it is apparent that while exercising the powers in appeal against the order of acquittal, the court of appeal would not ordinarily interfere with the order of acquittal unless the approach of the lower court is vitiated by some manifest illegality and the conclusion arrived at would not be arrived at by any reasonable person, and therefore, the decision is to be characterised as perverse. Merely because two views are possible, the court of appeal would not take the view which would upset the judgment delivered by the court below."

18. In the present case, the statements of these witnesses established that the police had taken the Khair wood from the bridge where they were stacked by the Contractor, and this version has to be preferred to the version propounded by the prosecution that the Khair wood was found in the truck bearing registration No. HP-54-2257.

19. Learned Trial Court had rightly pointed out that the seizure memos (Ext.PW-10/A) of the truck and Khair wood, and the seizure memo (Ext.PW-10/B) of the documents prepared on the spot did not contain the signatures of the accused.

20. ASI Amreek Singh (PW-10) stated that the signatures of the accused were not obtained on the memos (Ext.PW-10/A

and Ext.PW-10/B). He admitted that, usually, the signatures of the person producing the articles before the police are obtained on the seizure memo. No explanation has been provided for not obtaining the signatures of the accused on the seizure memos. The absence of the signatures of the accused on seizure memos supports the statements of Karnail Singh (PW-3) and Hansraj (PW-4) that the recovery was made from the bridge and not from the truck.

21. The learned Trial Court had drawn an adverse inference for non-examination of independent witnesses. It was submitted that the recovery was effected at a lonely place in the middle of the night, and it was not possible to join any independent person. This explanation is stated to be rejected.

22. The police had received prior information at 7:30 p.m that a truck was transporting timber, which could be recovered by setting up a Nakka. The recovery was effected at 12:30 a.m. Therefore, the police had five hours between the information and the recovery. The police proceeded from the Police Station to the spot and could have joined any person on the way. The police had definite information and were not going merely on the patrolling duty. Therefore, in these circumstances, the absence of

independent witnesses would assume significance, and the learned Trial Court was justified in drawing an adverse inference against the prosecution for non-examination of independent witnesses.

23. Therefore, the learned Trial Court had taken a reasonable view while acquitting the accused, and this Court will not interfere with the reasonable view of the learned Trial Court even if another view is possible.

24. No other point was urged.

25. In view of the above, the present appeal fails and is dismissed. Pending applications, if any, also stand disposed of

26. In view of the provisions of Section 437-A of the Code of Criminal Procedure (Section 481 of Bhartiya Nagarik Suraksha Sanhita, 2023) the respondents are directed to furnish bail bonds in the sum of ₹50,000/- each with one surety each of the like amount to the satisfaction of the learned Registrar (Judicial) of this Court/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 respondents on receipt of notice thereof shall appear before the Hon'ble Supreme Court

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27. A copy of the judgment, along with the record of the learned Trial Court, be sent back forthwith.

(Rakesh Kainthla)
Judge

18th May 2026
(ravinder)