



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 373 of 2014

Reserved on: 02.07.2026

Date of Decision: 13.07.2026

State of H.P. ...Appellant

Versus

Dev Raj ...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ Yes

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

For the Respondent : Mr Mukul Sharma, Advocate, vice Mr V.B. Verma, Advocate.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 24.03.2014 passed by learned Additional Chief Judicial Magistrate Kangra, District Kangra, HP (learned Trial Court) vide which the respondents (accused before learned Trial Court) were acquitted of the commission of an offence punishable under Section 304A of the Indian Penal Code (IPC). *(The parties shall*

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

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 Section 336 and 304A of the IPC. It was asserted that Jyoti Bala (since deceased) was married to Rashpal Singh on 20.02.2007, as per Hindu Rites and Customs. Rashpal Singh went to Bihar to undergo training on 28.02.2007. She told her father, Dev Raj, that the accused Guddo Devi, her mother-in-law, did not treat her properly. Jyoti Bala was sent to the house of the accused, Dev Raj, her brother-in-law, on 15.05.2007. Dev Raj telephoned the informant, Dev Raj (PW3), on 16.05.2007 at about 06.15 a.m., to report that a snake had bitten Jyoti on the previous night at about 11 pm. The informant went to the house of Dev Raj and found Jyoti unconscious. The informant tried to take Jyoti to the hospital, but Dev Raj replied that he had taken Jyoti to a sorcerer who had administered some medicine. The informant insisted on taking Jyoti to the hospital. Dev Raj replied that Jyoti was his guest and he was under an obligation to treat her properly. He insisted upon taking Jyoti to the sorcerer. The informant accompanied him. The

sorcerer stated that he had done whatever was possible, and Jyoti Bala could be taken wherever desired. Dev Raj carried Jyoti to Guddo Devi instead of the hospital. Subsequently, Jyoti was taken to the hospital, but she was declared dead. The informant made a complaint (Ext.PW3/A) to the police, and the police registered FIR (Ext.PW7/A). Ranjeet Singh (PW7) investigated the matter. He prepared the site plan (Ext.PW7/B). Dr Vivek Sood (PW6) conducted the post-mortem examination of Jyoti and found that the cause of death was a snake bite. He issued the report (Ext.PW6/A). The viscera of Jyoti were preserved and sent to the SFSL. A report was issued stating that no poison/alcohol was found in the blood of Jyoti. Statements of witnesses were recorded as per their version, and after the completion of the investigation, the challan was prepared and presented before the 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 an offence punishable under Section 304A of the IPC, to which they pleaded not guilty and claimed to be tried.

4. The prosecution examined seven witnesses to prove its case. Ashwani Kumar (PW1) is the neighbour of the accused Dev

Raj. Vaneeta Devi (PW2) is Jyoti's sister. Dev Raj (PW3) is Jyoti's father. Tek Chand (PW4) was told about the snake bite and reached the home of the accused Dev Raj. Buta Ram (PW5) is the sorcerer to whom Jyoti was taken. Dr Vivek Sood (PW6) conducted the post-mortem examination of Jyoti. Inspector Ranjeet Singh (PW7) investigated the matter.

5. The accused, in their statements recorded under Section 313 of the Code of Criminal Procedure (Cr.P.C.), admitted that Jyoti was bitten by a snake. They denied the rest of the prosecution's case. Dev Raj stated that he was beaten, and he remained confined to bed for 15 days. A false case was made against him so that he could not file a complaint with the police. The accused did not produce any evidence in their defence.

6. Learned Trial Court held that the cause of death was a snake bite. The act of the accused was not the proximate cause of Jyo'i's death. There was a delay in reporting the matter to the police. The statements of the prosecution's witnesses contradicted each other on material aspects. Hence, the learned Trial Court acquitted the accused.

7. Being aggrieved by the judgment passed by the learned Trial Court, the State has filed the present appeal asserting that the learned Trial Court erred in acquitting the accused. It was duly proved on record that Jyoti was bitten by the snake in the house of the accused Dev Raj. The accused Dev Raj took her to a sorcerer, who advised him to take her to the hospital. The accused took Jyoti to his home, and he did nothing to save her. The negligent conduct of the accused was responsible for the death of Jyoti. Learned Trial Court erred in rejecting the prosecution's case. Minor discrepancies in the testimonies were used to discard the prosecution's version. However, the minor contradictions are bound to come with time. The delay in reporting the matter to the police was seen as an adverse circumstance. However, the delay was properly explained. Therefore, it was prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

8. I have heard Mr Ajit Sharma, learned Deputy Advocate General for the appellant/State and Mr Mukul Sharma, Advocate, vice Mr V.B. Verma, learned counsel for the respondents/accused.

9. Mr Ajit Sharma, learned Deputy Advocate General for the appellant/State, submitted that the accused acted negligently

in not taking Jyoti to the hospital, which led to her death. The Learned Trial Court erred in rejecting the testimonies of the prosecution witnesses due to minor discrepancies. Therefore, he prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

10. Mr Mukul Sharma, learned vice counsel representing the respondents/accused, submitted that the snake bite and not the act of the accused was the proximate cause of Jyoti Bala's death. There were many discrepancies in the testimonies of the prosecution's witnesses. Learned Trial Court had taken a reasonable view while acquitting the accused. Hence, he prayed that the present appeal be dismissed.

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

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

reasonable person could have recorded the acquittal based on the evidence led before the learned Trial Court. It was observed on page 438:

“24. It could thus be seen that it is a settled legal position that the interference with the finding of acquittal recorded by the learned trial Judge would be warranted by the High Court only if the judgment of acquittal suffers from patent perversity; that the same is based on a misreading/omission to consider material evidence on record; and that no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

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

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

14. A similar view was taken in *Tulasareddi v. State of Karnataka*, 2026 SCC OnLine SC 89, wherein it was observed:

“29. From the aforesaid decisions rendered by this Court, it can be said that if two reasonable conclusions are possible on the basis of the evidence on record, the Appellate Court should not disturb the findings of acquittal recorded by the Trial Court. Further, if the view taken is a possible view, the Appellate Court cannot overturn the order of acquittal on the ground that another view was also possible. The following principles have to be kept in mind by the Appellate Court while dealing with the appeals against an order of acquittal:

(a) whether the judgment of acquittal suffers from patent perversity;

(b) whether the judgment is based on misreading/omission to consider the material evidence on record;

(c) an order of acquittal is to be interfered with only when there are “compelling and substantial reasons” for doing so. If the order is “clearly unreasonable”, it is a compelling reason for interference.’

(d) The appellate court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;

(e) If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and

(f) The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible.”

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

16. It is undisputed that Jyoti had died due to a snake bite. Dr Vivek Sood conducted the post-mortem examination and issued a report (Ext.PW6/A) in which he stated that the cause of death was a snake bite. He mentioned in the report that the probable time between injury and death was not known. He was not cross-examined regarding his opinion that the cause of death was a snake bite, and this part of his testimony was accepted as correct.

17. The prosecution asserted that the accused failed to take Jyoti to the hospital, which led to her death. The framers of the Indian Penal Code² stated that an omission would be punishable when it is illegal, which means that it is in breach of some direction of law or it is of such a nature as would furnish a good ground for civil action. They observed:

“What we propose is this, that where acts are made punishable on the ground that they have caused, or have been intended to cause, or have been known to be likely to cause a certain evil effect, omissions which have caused, which have been intended to cause, or which have been known to be likely to cause the same effect shall be punishable in the same manner; provided that such omissions were, on other grounds, illegal. An omission is illegal (see Clause 28) if it be an offence, if it be a breach of some direction of law, or if it be such a wrong as would be a good ground for a civil action.

2 A Penal Code prepared by the Indian Law Commissioners, and published by command of the Governor General of India in Council, Printed at The Bengal Military Orphan Press, Calcutta: 1837

We are sensible that in some of the cases which we have put our rule may appear too lenient. But we do not think that it can be made more severe, without disturbing the whole order of society. It is true that the man who, having an abundance of wealth, suffers a fellow creature to die of hunger at his feet, is a bad man, —a worse man, probably, than many of those for whom we have provided very severe punishment. But we are unable to see where, if we make such a man legally punishable, we can draw the line. If the rich man who refuses to save a beggar's life at the cost of a little copper is a murderer, is the poor man just one degree above beggary also to be a murderer if he omits to invite the beggar to partake his hard-earned rice? Again, if the rich man is a murderer for refusing to save the beggar's life at the cost of a little copper, is he also to be a murderer if he refuses to save the beggar's life at the cost of a thousand rupees? Suppose A to be fully convinced that nothing can save Z's life, unless Z leave Bengal, and resides a year at the Cape, is A, however wealthy he may be, to be punished as a murderer because he will not, at his own expense, send Z to the Cape? Surely not.

Yet it will be difficult to say on what principle we can punish A for not spending an anna to save Z's life, and leave him unpunished for not spending a thousand rupees to save Z's life. The distinction between a legal and an illegal omission is perfectly plain and intelligible. But the distinction between a large and a small sum of money is very far from being so; not to say that a sum which is small to one man is large to another. The same argument holds good in the case of the Ford. It is true that none but a very depraved man would suffer another to be drowned when he might prevent it by a word. But if we punish such a man, where are we to stop? How much exertion are we to require? Is a person to be a murderer if he does not go fifty yards through the sun of Bengal at noon in May in order to caution a traveller against a swollen river? Is he to be a murderer if he does not go a hundred yards? —If he does not go a mile? —If he does not go ten? What is the precise amount of trouble and inconvenience which he is to endure? The distinction

between the guide who is bound to conduct the traveller as safely as he can, and a mere stranger, is a clear distinction. But the distinction between a stranger who will not give a halloo to save a man's life, and a stranger who will not run a mile to save a man's life is very far from being equally clear.

It is, indeed, most highly desirable that men should not merely abstain from doing harm to their neighbours, but should render active services to their neighbours. In general, however, the penal law must content itself with keeping men from doing positive harm, and must leave to public opinion, and to the teachers of morality and religion, the office of furnishing men with motives for doing positive good. It is evident that to attempt to punish men by law for not rendering to others all the service which it is their duty to render to others would be preposterous- We must grant impunity to the vast majority of those omissions which a benevolent morality would pronounce reprehensible, and must content ourselves with punishing such omissions only when they are distinguished from the rest by some circumstance which marks them out as peculiarly fit objects of penal legislation.

Now, no circumstance appears to us so well fitted to be the mark as the circumstance which we have selected. It will generally be found in the most atrocious cases of omission; it will scarcely ever be found in a venial case of omission, and it is more clear and certain than any other mark that has occurred to us. That there are objections to the line which we propose to draw, we have admitted. But there are objections to every line which can be drawn, and some line must be drawn.

18. In the present case, the prosecution has not proved that the omission of the accused was in breach of some direction of law or would constitute a good ground for the civil action.

19. Buta Ram (PW5) stated that Jyoti was brought to him on 15.05.2007 at 12.30 a.m. with the history of a snake bite. He checked Jyoti and saw that there was no mark of a snake bite. He advised the accused to take her to the hospital. It was submitted that the accused had not taken Jyoti to the hospital despite the advice of Buta Ram (PW5), and had Jyoti been taken to the hospital, her life would have been saved. This submission cannot be accepted. Dr Vivek Sood never stated that Jyoti's life could have been saved by bringing her to the hospital. Therefore, there is no expert opinion that the life of Jyoti could have been saved had she been brought to the hospital. Dev Raj (PW3) found abrasions beneath the knee, and as per him, the doctor said that these abrasions were not caused by the snake bite. His testimony shows that the doctor was also not sure about the course of treatment to be administered to Jyoti Devi. Hence, in these circumstances, the prosecution's version that the life of Jyoti would have been saved had she been taken to the hospital cannot be accepted. In *Queen vs Morby [L.R.] 8 Q.B.D. 571*, the father had not taken the child to the doctor, and the child died. The doctor stated that the child's life could have been saved by medical treatment, or it could not have been. It was held that the prosecution must prove that neglect had

the effect of shortening life, and the mere possibility that the life could have been saved is not sufficient. Lord Coleridge CJ said:

“It is not enough to shew neglect of reasonable means for preserving or prolonging the child's life, but to convict of manslaughter, it must be shewn that the neglect had the effect of shortening life. The medical witness called for the prosecution gave his evidence clearly and well, and under a high sense of his duty and responsibility, and what he stated was, that in his opinion the chances of life would have been increased by having medical advice, that life might possibly have been prolonged thereby, or, indeed, might probably have been, but that he could not say that it would, or indeed that it would probably, have been prolonged thereby. In order to sustain the conviction, affirmative proof is required. This the skilled witness called, and upon whose evidence the matter rests, cannot, from the nature of the case, give and, indeed, properly declines to give. The direction of the learned judge, though right in point of law, is not applicable to the facts proved. The conviction cannot be sustained.”

20. Lord Grove J concurred and observed:

The judge seems to have considered that proof of the mere possibility of medical aid being of use in cases such as the one in question was not enough, that “might,” in fact, was not enough, and leaves the matter to the jury, asking them to answer the question which the skilled witness said he could not. This they do, but there really was no satisfactory evidence for them, and the conviction ought not to stand.

21. It was held in *Regina v. Broughton*, [2021] 1 WLR 543, that the prosecution has to prove that the act or omission of the accused was a significant contributory cause of death. It was observed:

14 The test for causation in homicide cases has long been that it is sufficient for the prosecution to prove that the act (or omission) of the accused was a significant contributory

cause of death, rather than the sole or principal cause of death. That reflects the obvious reality that there can be concurrent causes of death. In most cases, the issue will not arise. Most homicides resulting from an assault provide no difficulty because the injury is the undoubted cause of death. That will also be true in gross negligence manslaughter cases where the deceased suffers a traumatic death. Nonetheless, even in cases of assault causing injury, there may be examples of concurrent causes of death. They include an assault which provokes a fatal heart attack or an assault from which the victim dies in circumstances where medical treatment should have saved him, but did not because it was negligently administered.

15 In cases of gross negligence manslaughter which arise in the context of medical treatment, there will frequently be an underlying condition which causes death. The issue will be whether the breach of duty was also a substantial cause of the death. The same will apply when the allegation at the heart of the prosecution of manslaughter is that the health professional failed to provide treatment that should have been provided, or a person who owed the deceased a duty of care failed to secure medical treatment.

22. In the present case, there is no expert opinion that Jyoti's life could have been saved by taking her to the hospital; hence, the accused cannot be convicted of the commission of an offence punishable under Section 304A of the IPC.

23. Buta Ram (PW5) stated that he was running a shop in the village. He used to treat the victims of snake bites. He admitted in his cross-examination that he had been treating the victims of snake bites for about 30-40 years, and received 5-10

cases per week. He admitted that he was famous in the area for treating patients of snake bites.

24. The testimony of this witness shows that, even though he is a sorcerer, the people visited him for cases of snake bite. Thus, the people had faith in him, and the accused cannot be faulted for reposing faith in him.

25. Ashwani Kumar (PW1) stated that Guddo Devi was illiterate. He admitted that the accused were residing in a kaccha house. He also admitted that many people used to take the victims of snake bites to the sorcerer.

26. Vaneeta Devi (PW2) stated that the accused has a kaccha house, and Dev Raj used to work as a hairdresser.

27. Dev Raj (PW3) stated in his cross-examination that he could not say whether the accused Dev Raj had money for the treatment of Jyoti or not. Dev Raj was working as a hairdresser.

28. These statements show that the economic condition of the accused is not sound, and if they hesitated in taking Jyoti to the hospital, they cannot be faulted.

29. Therefore, the prosecution had not succeeded in establishing that failure to take Jyoti to the Doctor was the

proximate cause of her death. Learned Trial Court had taken a reasonable view that could have been taken, and no interference is required with a reasonable view of the learned Trial Court, even if another view is possible,

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

31. 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.

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

(Rakesh Kainthla)
Judge

13th July, 2026
(Nikita)