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IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 40 of 2015

Reserved on: 9.1.2026

Date of Decision: 24.2.2026.

State of H.P. ...Appellant

Versus

Dhruv Dev ...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?[1] No.

For the Appellant : Mr Jitender Sharma, Additional Advocate General.

For the Respondent : Mr Lakshay Thakur, Advocate.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 25.8.2014, passed by learned Additional Chief Judicial Magistrate, Palampur, District Kangra, HP (learned Trial Court), vide which the respondent (accused before the learned Trial Court) was acquitted of the commission of offences punishable under Sections 279, 337 and 338 of the Indian Penal Code (IPC).

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

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

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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 279, 337 and 338 of the IPC. It was asserted that informant Sada Nand (PW2) was returning to his home on a motorcycle bearing Registration No. HP-37B-2988, which was being driven by Banti @ Vivek Kumar (PW3). A car bearing the registration no. HP-39B-2236 overtook another car near Dairy Farm and hit the Motorcycle. The informant Sada Nanad (PW2) and Vivek Kumar (PW3) sustained injuries. Baldev Singh (PW5) took the injured to the Hospital. The accident occurred due to the rash and negligent driving of the driver of the car bearing the registration no. HP-39B-2236. An intimation was given to the police regarding the accident, and an entry (Ex.PB2) was recorded in the daily diary. ASI Roop Lal (PW8) went to the hospital to verify the correctness of the information. He filed an application (Ex.PW8/A) for conducting a medical examination of the injured and obtained the MLCs of Sada Nand (Ex. PA) and Vivek Kumar (Ex. PB). ASI Roop Lal recorded Sada Nand's statement (Ex.PW2/A) and sent it to the police station where the FIR was registered. ASI Roop Lal went to the spot and

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clicked the photographs (Ex.PA1 to PA4). He prepared the site plan (Ex.PW8/B) and seized the motorcycle bearing registration No. HP-37B-2988 and its documents vide memos (Ex.PW4/A and Ex.PW3/A). He also seized the car bearing registration No. HP-37B-2236 along with documents vide memo (Ex.PW1/A). Prem Singh (PW6) examined the vehicles and found that there was no defect in the vehicles, which could have led to the accident. He issued mechanical reports (Ex.PW6/A and Ex.PW6/B). Vivek Kumar was referred to a higher institution for his treatment, and his medical history (Ex.PE and Ex.PF) was obtained. The statements of prosecution witnesses were recorded as per their version, and after the completion of the 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 338 of the IPC, to which he pleaded not guilty and claimed to be tried.

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4. The prosecution examined eight witnesses to prove its case. Surinder Kumar (PW1) was travelling in the vehicle being driven by the accused. Sada Nand (PW2) was sitting as a pillion rider in the motorcycle being driven by Vivek Kumar (PW3). Madho Ram (PW4) is an eyewitness. Baldev Kumar (PW5) carried the injured to the hospital. Prem Singh (PW6) examined the vehicles. Constable Malkiyat Singh (PW7) witnessed the recovery. ASI Roop Lal (PW8) investigated the matter.

5. The accused, in his statement recorded under Section 313 of Cr.P.C., admitted that he was driving the vehicle on the date of the accident. He denied the rest of the prosecution's case. He claimed that he was innocent and was falsely implicated. He did not produce any evidence in his defence.

6. Learned Trial Court held that Surinder Kumar (PW1) had not supported the prosecution's case. He stated that the motorcycle driver drove it towards the wrong side and hit the car. His testimony made the prosecution's case doubtful. The statements of other witnesses were not reliable. Madho Ram (PW4) and Baldev Kumar (PW5) were related to Vivek Kumar

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(PW3). There were material contradictions in their testimonies regarding the number of persons travelling in the car and the ownership of the car. The site plan showed a 5 ft. 5-inch road towards the right side of the motorcycle. Thus, sufficient space was available towards the left side of the motorcycle. All these circumstances made the prosecution's case doubtful. Hence, the accused was acquitted.

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 appreciating the material on record. Learned Trial Court erred in discarding the testimonies of the prosecution witnesses because of a relationship. The minor contradictions were blown out of proportion to doubt the prosecution’s case. The contradictions were bound to come with time and could not have been used to doubt the prosecution’s case. The accused admitted in his statement recorded under Section 313 Cr.PC that he was driving the car at the time of the accident, and this admission was ignored by the learned Trial Court. Therefore, it was prayed that the present appeal be allowed, and the judgment passed by the learned Trial Court be set-aside.

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8. I have heard Mr Jitender Sharma, learned Additional Advocate General for the appellant/State and Mr Lakshay Thakur, learned counsel for the respondent/accused.

9. Mr Jitender Sharma, learned Additional Advocate General for the appellant/State, submitted that the learned Trial Court erred in acquitting the accused. It was duly proved by the site plan and the photographs of the spot that the car was being driven towards the right side of the road. The witnesses specifically stated that the car had overtaken another car and hit the motorcycle on the wrong side of the road. The prosecution's case was rejected because of the relationship and minor contradictions. The learned Trial Court has taken an unreasonable view of the matter. Therefore, he prayed that the appeal be allowed, and the judgment passed by the learned Trial Court be set-aside.

10. Mr Lakshay Thakur, learned counsel, for the respondent/accused, submitted that Surinder Kumar (PW1), occupant of the car, had not supported the prosecution’s case. He specifically stated that the accident occurred due to the negligence of the motorcycle driver. There were material

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contradictions in the statements of prosecution witnesses, and the learned Trial Court was justified in discarding their testimonies. Learned Trial Court had taken a reasonable view, and this Court should not interfere with the reasonable view of the learned Trial Court. Therefore, 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 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 misreading/omission to consider material evidence on record; and that no two reasonable views are possible and

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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*, ***Mallappav. State of Karnataka 2024 INSC 104***, ***Ballu @ Balram @ Balmukund v. 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. Learned Trial Court relied upon the testimony of Surinder Kumar (PW1) to reject the prosecution's case. Surinder Kumar (PW1) stated that a motorcycle came from Palampur at high speed. He was permitted to be cross-examined. He

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admitted that police had reached the spot, prepared the site plan and took the photographs. He admitted that the police seized the documents and recorded the statements of witnesses. He admitted that the spot position was the same as depicted in the photographs. He volunteered to say that the tyre of the car had burst, and the people tried to move the car, but it could not be moved. He denied the previous statement recorded by the police. He denied that the accused overtook another car and hit the motorcycle. He denied that the accident had occurred due to the negligence of the accused. He denied that the car was being driven towards the wrong side.

16. This witness has denied the previous statement recorded by the police. ASI Roop Lal (PW8) specifically stated that he had recorded the statement of witnesses as per their version. This was not suggested to be incorrect. Therefore, Surinder Kumar (PW1) is shown to have made two inconsistent statements — one before the police that the accident occurred due to the overtaking of the car by the accused, and another before the Court that the accused was not overtaking the vehicle. Both these statements cannot stand together, and his credit has been impeached under Section 155(3) of the Indian Evidence Act.

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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 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."

17. 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-

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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 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.

18. Thus, the testimony of Surinder Kumar could not have been used to discard the prosecution's case.

19. Surinder Kumar (PW1) admitted that the vehicle remained in its possession after the accident. An attempt was made to move the vehicle, but the vehicle could not be moved because its tyre had burst. Photographs (Ex.PA1 to PA3) show that the car bearing registration No. HP-39B-2236 had crossed the central line and was towards the other side of the road. These photographs corroborate the prosecution's version that the car was being driven towards the right side of the road and falsify the statement of Surinder Kumar that the car was being driven towards its own side.

20. Sada Nand (PW2) stated that a car bearing registration No. HP-39B-2236 overtook another car and hit the

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motorcycle towards the wrong side of the road near a dairy farm. He stated in his cross-examination that he was not aware of the fact that Baldev and Madho Ram had reached the spot after the accident. He denied that the accident occurred due to the negligence of the motorcyclist.

21. His testimony that the car overtook another car and went towards the wrong side of the road is duly corroborated by the photographs in which the car is shown towards the right side of the road after crossing the central line. No other explanation has been provided by the accused for taking the vehicle towards the right side of the road. Hence, his testimony, as corroborated by the photograph, has to be accepted as correct that the car bearing registration no. HP-39B-2236 was being driven towards the right side of the road.

22. Madho Ram (PW4) stated that he and his younger brother were going to Palampur on 05.11.2010. A car bearing registration No. HP-39B-2236 overtook their car and hit a motorcycle on the wrong side of the road. The motorcyclists fell on the spot and sustained injuries. They were taken to the

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hospital. He stated in his cross-examination that Vivek (PW3) is his brother. He denied that the accused was falsely implicated.

23. Baldev Kumar (PW5) also corroborated his version. He stated that he and his brother Madho Ram (PW4) were travelling in a car on 05.11.2010. Another car bearing registration No. HP-39B-2236 overtook their car and hit a motorcycle coming from the opposite side. Dhruv Dev (the accused) was driving the car. He stated in his cross-examination that he had known the accused for about 7-8 months before the accident. His statement was recorded the next day. He admitted that about 60 people had gathered on the spot. Four people were sitting in the car. He denied that the accused was falsely implicated.

24. The learned Trial Court discarded their statements because they were related to Vivek. This reasoning cannot be sustained. It was laid down by the Hon'ble Supreme Court in ***Laltu Ghosh v. State of W.B.*, *(2019) 15 SCC 344: (2020) 1 SCC (Cri) 275: 2019 SCC OnLine SC 2*** that a related witness is not an interested witness and his testimony cannot be rejected on the ground of interestedness. It was observed:

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"**12.** As regards the contention that the eyewitnesses are close relatives of the deceased, it is by now well-settled that a related witness cannot be said to be an "interested" witness merely by virtue of being a relative of the victim. This Court has elucidated the difference between "interested" and "related" witnesses in a plethora of cases, stating that a witness may be called interested only when he or she derives some benefit from the result of litigation, which in the context of a criminal case would mean that the witness has a direct or indirect interest in seeing the accused punished due to prior enmity or other reasons, and thus has a motive to falsely implicate the accused (for instance, see ***State of Rajasthan* v. *Kalki*, *(1981) 2 SCC 752: 1981 SCC (Cri) 593; Amit v. State of U.P., (2012) 4 SCC 107 : (2012) 2 SCC (Cri) 590*** and ***Gangabhavani v. Rayapati Venkat Reddy, (2013) 15 SCC 298 : (2014) 6 SCC (Cri) 182)***.

13. Recently, this difference was reiterated in ***Ganapathi v. State of T.N., (2018) 5 SCC 549 : (2018) 2 SCC (Cri) 793***, in the following terms, by referring to the three-Judge Bench decision in ***State of Rajasthan v. Kalki, (1981) 2 SCC 752: 1981 SCC (Cri) 593 : (Ganapathi v. State of T.N., (2018) 5 SCC 549 : (2018) 2 SCC (Cri) 793)***, SCC p. 555, para 14)

> "*14*. "Related" is not equivalent to "interested". A witness may be called "interested" only when he or she derives some benefit from the result of a litigation; in the decree in a civil case, or in seeing an accused person punished. A witness who is a natural one and is the only possible eyewitness in the circumstances of a case cannot be said to be "interested"...."

14. In criminal cases, it is often the case that the offence is witnessed by a close relative of the victim, whose presence on the scene of the offence would be natural. The evidence of such a witness cannot automatically be discarded by labelling the witness as interested. Indeed, one of the earliest statements with respect to interested witnesses in criminal cases was made by this Court in

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Dalip Singh v. State of Punjab, 1954 SCR 145: AIR 1953 SC 364: 1953 Cri LJ 1465, wherein this Court observed: (AIR p. 366, para 26)

> "26. A witness is normally to be considered independent unless he or she springs from sources which are likely to be tainted, and that usually means unless the witness has cause, such as enmity against the accused, to wish to implicate him falsely. Ordinarily, a close relative would be the last to screen the real culprit and falsely implicate an innocent person."

15. In the case of a related witness, the Court may not treat his or her testimony as inherently tainted and needs to ensure only that the evidence is inherently reliable, probable, cogent and consistent. We may refer to the observations of this Court in ***Jayabalan v. State (UT of Pondicherry), (2010) 1 SCC 199: (2010) 2 SCC (Cri) 966)***: (SCC p. 213, para 23)

> "23. We are of the considered view that in cases where the court is called upon to deal with the evidence of the interested witnesses, the approach of the court, while appreciating the evidence of such witnesses, must not be pedantic. The court must be cautious in appreciating and accepting the evidence given by the interested witnesses, but the court must not be suspicious of such evidence. The primary endeavour of the court must be to look for consistency. The evidence of a witness cannot be ignored or thrown out solely because it comes from the mouth of a person who is closely related to the victim."

25. It was laid down by the Hon'ble Supreme Court in ***Thoti Manohar vs State of Andhra Pradesh (2012) 7 SCC 723*** that the court cannot discard the testimony of a witness on the ground of a relationship. It was observed:

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"31. In this context, we may refer with profit to the decision of this Court in ***Dalip Singh v. State of Punjab AIR 1953 SC 364***, wherein Vivian Bose, J., speaking for the Court, observed as follows: -

> "We are unable to agree with the learned Judges of the High Court that the testimony of the two eye-witnesses requires corroboration. If the foundation for such an observation is based on the fact that the witnesses are women and that the fate of seven men hangs on their testimony, we know of no such rule. If it is grounded on the reason that they are closely related to the deceased, we are unable to concur. This is a fallacy common to many criminal cases and one which another Bench of this Court endeavoured to dispel in ***Rameshwar v. The State of Rajasthan (1952) SCR 377 at p. 390 = (AIR 1952 SC 54 at page 59)***."

32. In the said case, it was further observed that:

> "A witness is normally to be considered independent unless he or she springs from sources which are likely to be tainted, and that usually means unless the witness has a cause, such as an enmity against the accused, to wish to implicate him falsely. Ordinarily, a close relative would be the last to screen the real culprit and falsely implicate an innocent person. It is true that when feelings run high and there is a personal cause for enmity, there is a tendency to drag in an innocent person against whom a witness has a grudge along with the guilty, but the foundation must be laid for such criticism, and the mere fact of relationship, far from being a foundation is often a sure guarantee of truth."

33. In ***Masalti v. State of U.P. AIR 1965 SC 202***, it has been ruled that normally close relatives of the deceased would not be considered to be interested witnesses who would also mention the names of the other persons as responsible for causing injuries to the deceased.

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34. In ***Hari Obula Reddi and others v. State of Andhra Pradesh AIR 1981 SC 82***, a three-judge Bench has held that evidence of interested witnesses is not necessarily unreliable evidence. Even partisanship by itself is not a valid ground for discrediting or rejecting sworn testimony. It can be laid down as an invariable rule that interested evidence can never form the basis of conviction unless corroborated to a material extent in material particulars by independent evidence. All that is necessary is that the evidence of interested witnesses should be subjected to scrutiny and accepted with caution. If, on such scrutiny, the interested testimony is found to be intrinsically reliable or inherently probable, it may, by itself, be sufficient, in the circumstances of the particular case, to base a conviction thereon.

35. In ***Kartik Malhar v. State of Bihar (1996) 1 SCC 614***, it has been opined that a close relative who is a natural witness cannot be regarded as an interested witness, for the term 'interested' postulates that the witness must have some interest in having the accused, somehow or the other, convicted for some animus or some other reason.

36. In ***Pulicherla Nagaraju alias Nagaraja Reddy v. State of Andhra Pradesh AIR 2006 SC 3010***, while dealing with the liability of interested witnesses who are relatives, a two-judge Bench observed that:

> "It is well settled that evidence of a witness cannot be discarded merely on the ground that he is either partisan or interested or close relative to the deceased if it is otherwise found to be trustworthy and credible."

The said evidence only requires scrutiny with more care and caution, so that neither the guilty escapes nor the innocent is wrongly convicted. If, on such scrutiny, the evidence is found to be reliable and probable, then it can be acted upon.

> "If it is found to be improbable or suspicious, it ought to be rejected. Where the witness has a

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> motive to falsely implicate the accused, his testimony should have corroboration in regard to material particulars before it is accepted."

26. This position was reiterated in ***Rajesh Yadav vs. State of Bihar 2022 Cr.L.J. 2986 (SC)*** as under:

> "28. A related witness cannot be termed as an interested witness per se. One has to see the place of occurrence along with other circumstances. A related witness can also be a natural witness. If an offence is committed within the precincts of the deceased, the presence of his family members cannot be ruled out, as they assume the position of natural witnesses. When their evidence is clear, cogent and withstands the rigour of cross-examination, it becomes sterling, not requiring further corroboration. A related witness would become an interested witness only when he is desirous of implicating the accused in rendering a conviction, on purpose.
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> 29. When the court is convinced of the quality of the evidence produced, notwithstanding the classification as quoted above, it becomes the best evidence. Such testimony being natural, adding to the degree of probability, the court has to rely upon it in proving a fact. The aforesaid position of law has been well laid down in ***Bhaskarrao v. State of Maharashtra, (2018) 6 SCC 591***:
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> > "32. Coming back to the appreciation of the evidence at hand, at the outset, our attention is drawn to the fact that the witnesses were interrelated, and this Court should be cautious in accepting their statements. It would be beneficial to recapitulate the law concerning the appreciation of evidence of a related witness. In ***Dalip Singh v. State of Punjab, 1954 SCR 145: AIR 1953 SC 364: 1953 Cri LJ 1465***, Vivian Bose, J. for the Bench, observed the law as under (AIR p. 366, para 26)
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> > > "26. A witness is normally to be considered independent unless he or she springs from sources which are likely to be tainted, and that usually means

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unless the witness has a cause, such as an enmity against the accused, to wish to implicate him falsely. Ordinarily, a close relative would be the last to screen the real culprit and falsely implicate an innocent person. It is true when feelings run high and there is a personal cause for enmity, that there is a tendency to drag in an innocent person against whom a witness has a grudge along with the guilty, but the foundation must be laid for such a criticism, and the mere fact of relationship, far from being a foundation is often a sure guarantee of truth. However, we are not attempting any sweeping generalisation. Each case must be judged on its own facts. Our observations are only made to combat what is so often put forward in cases before us as a general rule of prudence. There is no such general rule. Each case must be limited to and be governed by its own facts."

33. In ***Masalti v. State of U.P., (1964) 8 SCR 133: AIR 1965 SC 202: (1965) 1 Cri LJ 226]***, a five-judge Bench of this Court has categorically observed as under (AIR pp. 209-210, para 14)

"14. ... There is no doubt that when a criminal court has to appreciate evidence given by witnesses who are partisan or interested, it has to be very careful in weighing such evidence. Whether or not there are discrepancies in the evidence, whether or not the evidence strikes the court as genuine, whether or not the story disclosed by the evidence is probable, are all matters that must be taken into account. But it would, we think, be unreasonable to contend that evidence given by witnesses should be discarded only on the ground that it is evidence of partisan or interested witnesses. Often enough, where factions prevail in villages and murders are committed as a result of enmity between such factions, criminal courts have to deal with evidence of a partisan type. The mechanical rejection of such evidence on the

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sole ground that it is partisan would invariably lead to the failure of justice. No hard-and-fast rule can be laid down as to how much evidence should be appreciated. The judicial approach has to be cautious in dealing with such evidence, but the plea that such evidence should be rejected because it is partisan cannot be accepted as correct."

34. In ***Darya Singh v. State of Punjab [(1964) 3 SCR 397: AIR 1965 SC 328: (1965) 1 Cri LJ 350]***, this Court held that evidence of an eyewitness who is a near relative of the victim should be closely scrutinised, but no corroboration is necessary for acceptance of his evidence. In ***Harbans Kaur v. State of Haryana [(2005) 9 SCC 195: 2005 SCC (Cri) 1213: 2005 Cri LJ 2199]***, this Court observed that: (SCC p. 227, para 6)

"6. There is no proposition in law that relatives are to be treated as untruthful witnesses. On the contrary, reason has to be shown when a plea of partiality is raised to show that the witnesses had reason to shield the actual culprit and falsely implicate the accused."

35. The last case we need to concern ourselves with is ***Namdeo v. State of Maharashtra (2007) 14 SCC 150: (2009) 1 SCC (Cri) 773***, wherein this Court, after observing previous precedents, has summarised the law in the following manner: (SCC p. 164, para 38)

"38. ... It is clear that a close relative cannot be characterised as an "interested" witness. He is a "natural" witness. His evidence, however, must be scrutinised carefully. If, on such scrutiny, his evidence is found to be intrinsically reliable, inherently probable and wholly trustworthy, a conviction can be based on the "sole" testimony of such a witness. A close relationship of the witness with the deceased or the victim is no grounds to reject his evidence. On the contrary, a close relative of the deceased would normally be most reluctant to

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spare the real culprit and falsely implicate an innocent one."

36. From the study of the aforesaid precedents of this Court, we may note that whoever has been a witness before the court of law, having a strong interest in the result, if allowed to be weighed in the same scales with those who do not have any interest in the result, would be to open the doors of the court for perverted truth. This sound rule, which remains the bulwark of this system and which determines the value of evidence derived from such sources, needs to be cautiously and carefully observed and enforced. There is no dispute about the fact that the interest of the witness must affect his testimony is a universal truth. Moreover, under the influence of bias, a man may not be in a position to judge correctly, even if they earnestly desires to do so. Similarly, he may not be in a position to provide evidence in an impartial manner when it involves his interests. Under such influences, man will, even though not consciously, suppress some facts, soften or modify others, and provide favourable colour. These are the most controlling considerations in respect to the credibility of human testimony, and should never be overlooked in applying the rules of evidence and determining its weight in the scale of truth under the facts and circumstances of each case."

30. Once again, we reiterate with a word of caution that the trial court is the best court to decide on the aforesaid aspect, as no mathematical calculation or straightjacket formula can be made on the assessment of a witness, as the journey towards the truth can be seen better through the eyes of the trial judge. In fact, this is the real objective behind the enactment itself, which extends the maximum discretion to the court."

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27. Similar is the judgment in ***M Nageswara Reddy vs. State of Andhra Pradesh 2022 (5) SCC 791,*** wherein it was observed:

> "10. Having gone through the deposition of the relevant witnesses -eye-witnesses/injured eye-witnesses, we are of the opinion that there are no major/material contradictions in the deposition of the eye-witnesses and injured eye-witnesses. All are consistent insofar as accused Nos. 1 to 3 are concerned. As observed hereinabove, PW6 has identified Accused Nos. 1 to 3. The High Court has observed that PW1, PW3 & PW5 were planted witnesses merely on the ground that they were all interested witnesses, being relatives of the deceased. Merely because the witnesses were the relatives of the deceased, their evidence cannot be discarded solely on the aforesaid ground. Therefore, in the facts and circumstances of the case, the High Court has materially erred in discarding the deposition/evidence of PW1, PW3, PW5 & PW6 and even PW7."

28. It was laid down by the Hon'ble Supreme Court in ***Mohd. Jabbar Ali v. State of Assam, 2022 SCC OnLine SC 1440***, that relationship is no reason to discard the witnesses' testimonies. The Court is required to see their testimonies with due care and caution. It was observed:

> **55.** It is noted that great weight has been attached to the testimonies of the witnesses in the instant case. Having regard to the aforesaid fact that this Court has examined the credibility of the witnesses to rule out any tainted evidence given in the court of Law. It was contended by learned counsel for the appellant that the prosecution

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failed to examine any independent witnesses in the present case and that the witnesses were related to each other. This Court, in a number of cases, has had the opportunity to consider the said aspect of related/interested/partisan witnesses and the credibility of such witnesses. This Court is conscious of the well-settled principle that just because the witnesses are related/interested/partisan witnesses, their testimonies cannot be disregarded; however, it is also true that when the witnesses are related/interested, their testimonies have to be scrutinised with greater care and circumspection. In the case of ***Gangadhar Behera v. State of Orissa, (2002) 8 SCC 381***, this Court held that the testimony of such related witnesses should be analysed with caution for its credibility.

56. In ***Raju alias Balachandran* v. *State of Tamil Nadu*, *(2012) 12 SCC 701***, this Court observed:

> "29. The sum and substance is that the evidence of a related or interested witness should be meticulously and carefully examined. In a case where the related and interested witness may have some enmity with the assailant, the bar would need to be raised, and the evidence of the witness would have to be examined by applying a standard of discerning scrutiny. However, this is only a rule of prudence and not one of law, as held in ***Dalip Singh [AIR 1953 SC 364]*** and pithily reiterated in ***Sarwan Singh [(1976) 4 SCC 369***] in the following words: (***Sarwan Singh case [(1976) 4 SCC 369***, p. 376, para 10)
>
> > "10. ... The evidence of an interested witness does not suffer from any infirmity as such, but the courts require, as a rule of prudence, not as a rule of law, that the evidence of such witnesses should be scrutinised with a little care. Once that approach is made and the court is satisfied that the evidence of

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> interested witnesses has a ring of truth, such evidence could be relied upon even without corroboration."

57. Further delving into the same issue, it is noted that in the case of ***Ganapathi v. State of Tamil Nadu, (2018) 5 SCC 549***, this Court held that in several cases when only family members are present at the time of the incident and the case of the prosecution is based only on their evidence, Courts have to be cautious and meticulously evaluate the evidence in the process of trial.

29. This position was reiterated in ***Baban Shankar Daphal v. State of Maharashtra, 2025 SCC OnLine SC 137,*** wherein it was observed:

> "**27.** One of the contentions of the learned counsel for the appellants is that the eyewitnesses to the incident were all closely related to the deceased, and for prudence, the prosecution ought to have examined some other independent eyewitnesses as well who were present at the time of the unfortunate incident. This was also the view taken by the Trial Court, but the High Court has correctly rejected such an approach and held that merely because there were some more independent witnesses, who had also reached the place of the incident, the evidence of the relatives cannot be disbelieved. The law nowhere states that the evidence of the interested witness should be discarded altogether. The law only warrants that their evidence should be scrutinised with care and caution. It has been held by this Court in the catena of judgments that merely if a witness is a relative, their testimony cannot be discarded on that ground alone.
>
> **28.** In criminal cases, the credibility of witnesses, particularly those who are close relatives of the victim, is often scrutinised. However, being a relative does not automatically render a witness "interested" or biased. The term "interested" refers to witnesses who have a

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personal stake in the outcome, such as a desire for revenge or to falsely implicate the accused due to enmity or personal gain. A "related" witness, on the other hand, is someone who may be naturally present at the scene of the crime, and their testimony should not be dismissed simply because of their relationship to the victim. Courts must assess the reliability, consistency, and coherence of their statements rather than labelling them as untrustworthy.

29. The distinction between "interested" and "related" witnesses has been clarified in **Dalip Singh v. State of Punjab** *1954 SCR 145: AIR 1953 SC 364: 1953 Cri LJ 1465*, where this Court emphasised that a close relative is usually the last person to falsely implicate an innocent person. Therefore, in evaluating the evidence of a related witness, the court should focus on the consistency and credibility of their testimony. This approach ensures that the evidence is not discarded merely due to familial ties, but is instead assessed based on its inherent reliability and consistency with other evidence in the case. This position has been reiterated by this Court in:

> **i.** ***Md. Rojali Ali v. The State of Assam, Ministry of Home Affairs through secretary (2019) 19 SCC 567;***
>
> ***ii. Ganapathi v. State of T.N. (2018) 5 SCC 549;***
>
> ***iii. Jayabalan v. Union Territory of Pondicherry (2010) 1 SCC 199.***

30. Though the eyewitnesses who have been examined in the present case were closely related to the deceased, namely his wife, daughter and son, their testimonies are consistent with respect to the accused persons being the assailants who inflicted wounds on the deceased. As is revealed from the sequence of events that transpired, one of the family members was subjected to an assault. It was thus quite natural for the other family members to rush on the spot to intervene. The presence of the family members on the spot and thus being eyewitnesses has been well established. In such circumstances, merely

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because the eyewitnesses are family members, their testimonies cannot be discarded solely on that ground.

30. Therefore, the learned Trial Court erred in rejecting their statements because of the relationship.

31. Vivek Kumar (PW3) was driving the motorcycle. He stated that a car bearing registration no. HP-39B-2236 overtook another car and hit a motorcycle on the wrong side of the road at Dairy Farm. He stated in his cross-examination that Baldev and Madho Ram are his uncles. He denied that a woman was driving the car and that the accused was called to the spot after the accident. His statement was recorded in the hospital on the date of the accident. He denied that the speed of the motorcycle was 50 KM per hour or that the accident occurred due to his negligence.

32. The witnesses stated that the accused was driving the car at the time of the accident. They denied in their cross-examination that a woman was driving the car. The accused admitted in his statement recorded under Section 313 CrPC that he was driving the car bearing registration No. HP-39B-2236 on 05.11.2010. It was laid down by the Hon'ble Supreme Court in ***State of Maharashtra v. Sukhdev Singh, (1992) 3 SCC 700: 1992 SCC***

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(Cri) 705: 1992 SCC OnLine SC 421 that the Courts can rely upon the statement of the accused recorded under Section 313 of the Cr.P.C. It was observed at page 742:

> "**51.** That brings us to the question of whether such a statement recorded under Section 313 of the Code can constitute the sole basis for conviction. Since no oath is administered to the accused, the statements made by the accused will not be evidence stricto sensu. That is why sub-section (3) says that the accused shall not render himself liable to punishment if he gives false answers. Then comes sub-section (4), which reads:
>
> > "313. (4) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed."
>
> Thus, the answers given by the accused in response to his examination under Section 313 can be taken into consideration in such an inquiry or trial. This much is clear on a plain reading of the above sub-section. Therefore, though not strictly evidence, sub-section (4) permits that it may be taken into consideration in the said inquiry or trial. See ***State of Maharashtra v. R.B. Chowdhari (1967) 3 SCR 708: AIR 1968 SC 110: 1968 Cri LJ 95***. This Court, in the case of ***Hate Singh Bhagat Singh v. State of M.B. 1951 SCC 1060: 1953 Cri LJ 1933: AIR 1953 SC 468,*** held that an answer given by an accused under Section 313 examination can be used for proving his guilt as much as the evidence given by a prosecution witness. In ***Narain Singh v. State of Punjab (1963) 3 SCR 678: (1964) 1 Cri LJ 730***, this Court held that if the accused confesses to the commission of the offence with which he is charged, the Court may, relying upon that confession, proceed to convict him. To state the exact language in which the three-Judge bench answered the question, it would be

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advantageous to reproduce the relevant observations at pages 684-685:

> "Under Section 342 of the Code of Criminal Procedure by the first sub-section, insofar as it is material, the Court may at any stage of the enquiry or trial and after the witnesses for the prosecution have been examined and before the accused is called upon for his defence shall put questions to the accused person for the purpose of enabling him to explain any circumstance appearing in the evidence against him. Examination under Section 342 is primarily to be directed to those matters on which evidence has been led for the prosecution to ascertain from the accused his version or explanation, if any, of the incident which forms the subject-matter of the charge and his defence. By sub-section (3), the answers given by the accused may 'be taken into consideration' at the enquiry or the trial. *If the accused person in his examination under Section 342 confesses to the commission of the offence charged against him the court may, relying upon that confession, proceed to convict him*, but if he does not confess and in explaining circumstance appearing in the evidence against him sets up his own version and seeks to explain his conduct pleading that he has committed no offence, the statement of the accused can only be taken into consideration in its entirety." (emphasis supplied)

Sub-section (1) of Section 313 corresponds to sub-section (1) of Section 342 of the old Code, except that it now stands bifurcated in two parts with the proviso added thereto clarifying that in summons cases where the presence of the accused is dispensed with, his examination under clause (*b*) may also be dispensed with. Sub-section (2) of Section 313 reproduces the old sub-section (4), asd the present sub-section (3) corresponds to the old sub-section (2) except for the change necessitated on account of the abolition of the jury

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> system. The present sub-section (4) with which we are concerned is a verbatim reproduction of the old sub-section (3). Therefore, the aforestated observations apply with equal force."

33. It was laid down by the Hon'ble Supreme Court in ***Mohan Singh v. Prem Singh, (2002) 10 SCC 236: 2003 SCC (Cri) 1514: 2002 SCC OnLine SC 933***, that the statement made by the accused under Section 313 of Cr.P.C. can be used to lend credence to the evidence led by the prosecution, but such statement cannot form the sole basis for conviction. It was observed at page 244:

> **27.** The statement made in defence by the accused under Section 313 CrPC can certainly be taken aid of to lend credence to the evidence led by the prosecution, but only a part of such statement under Section 313 of the Code of Criminal Procedure cannot be made the sole basis of his conviction. The law on the subject is almost settled that the statement under Section 313 CrPC of the accused can either be relied on in whole or in part. It may also be possible to rely on the inculpatory part of his statement if the exculpatory part is found to be false on the basis of the evidence led by the prosecution. See ***Nishi Kant Jha v. State of Bihar (1969) 1 SCC 347: AIR 1969 SC 422***: (SCC pp. 357-58, para 23)
>
> > "23. In this case, the exculpatory part of the statement in Exhibit 6 is not only inherently improbable but is contradicted by the other evidence. According to this statement, the injury that the appellant received was caused by the appellant's attempt to catch hold of the hand of Lal Mohan Sharma to prevent the attack on the victim. This was contradicted by the statement of the

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> accused himself under Section 342 CrPC to the effect that he had received the injury in a scuffle with a herdsman. The injury found on his body when he was examined by the doctor on 13-10-1961, negatives of both these versions. Neither of these versions accounts for the profuse bleeding which led to his washing his clothes and having a bath in River Patro, the amount of bleeding and the washing of the bloodstains being so considerable as to attract the attention of Ram Kishore Pandey, PW 17 and asking him about the cause thereof. The bleeding was not a simple one as his clothes all got stained with blood, as also his books, his exercise book, his belt and his shoes. More than that, the knife which was discovered on his person was found to have been stained with blood according to the report of the Chemical Examiner. According to the post-mortem report, this knife could have been the cause of the injuries on the victim. *In circumstances like these, there being enough evidence to reject the exculpatory part of the statement of the appellant in Exhibit 6, the High Court had acted rightly in accepting the inculpatory part and piercing the same with the other evidence to come to the conclusion that the appellant was the person responsible for the crime.*" (emphasis supplied)

34. It was laid down in ***Ramnaresh v. State of Chhattisgarh, (2012) 4 SCC 257: (2012) 2 SCC (Cri) 382: 2012 SCC OnLine SC 213***, that the statement of the accused under Section 313 of Cr.P.C., insofar as it supports the prosecution's case, can be used against him for recording a conviction. It was observed at page 275: -

> "**52.** It is a settled principle of law that the obligation to put material evidence to the accused under Section 313 CrPC is upon the court. One of the main objects of

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> recording a statement under this provision of the CrPC is to give an opportunity to the accused to explain the circumstances appearing against him as well as to put forward his defence, if the accused so desires. But once he does not avail this opportunity, then consequences in law must follow. Where the accused takes benefit of this opportunity, then his statement made under Section 313 CrPC, insofar as it supports the case of the prosecution, can be used against him for rendering a conviction. Even under the latter, he faces the consequences in law."

35. This position was reiterated in ***Ashok Debbarma v. State of Tripura, (2014) 4 SCC 747: (2014) 2 SCC (Cri) 417: 2014 SCC OnLine SC 199***, and it was held that the statement of the accused recorded under Section 313 of the Cr.P.C. can be used to lend corroboration to the statements of prosecution witnesses. It was held at page 761: -

> **24.** We are of the view that, under Section 313 statement, if the accused admits that, from the evidence of various witnesses, four persons sustained severe bullet injuries by the firing by the accused and his associates, that admission of guilt in Section 313 statement cannot be brushed aside. This Court in ***State of Maharashtra v. Sukhdev Singh [(1992) 3 SCC 700: 1992 SCC (Cri) 705*** held that since no oath is administered to the accused, the statement made by the accused under Section 313 CrPC will not be evidence stricto sensu and the accused, of course, shall not render himself liable to punishment merely on the basis of answers given while he was being examined under Section 313 CrPC. But, sub-section (4) says that the answers given by the accused in response to his examination under Section 313 CrPC can be taken into consideration in such an inquiry or trial. This Court in ***Hate Singh Bhagat Singh v. State of Madhya Bharat, 1951***

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SCC 1060: AIR 1953 SC 468: 1953 Cri LJ 1933 held that the answers given by the accused under Section 313 examination can be used for proving his guilt as much as the evidence given by the prosecution witness. In ***Narain Singh v. State of Punjab (1964) 1 Cri LJ 730: (1963) 3 SCR 678,*** this Court held that when the accused confesses to the commission of the offence with which he is charged, the court may rely upon the confession and proceed to convict him.

25. This Court in ***Mohan Singh v. Prem Singh (2002) 10 SCC 236: 2003 SCC (Cri) 1514*** held that: (SCC p. 244, para 27)

> "27. The statement made in defence by the accused under Section 313 CrPC can certainly be taken aid of to lend credence to the evidence led by the prosecution, but only a part of such statement under Section 313 CrPC cannot be made the sole basis of his conviction."

In this connection, reference may also be made to the judgments of this Court in ***Devender Kumar Singla v. Baldev Krishan Singla (2005) 9 SCC 15: 2005 SCC (Cri) 1185*** and ***Bishnu Prasad Sinha v. State of Assam (2007) 11 SCC 467: (2008) 1 SCC (Cri) 766***. The abovementioned decisions would indicate that the statement of the accused under Section 313 CrPC for the admission of his guilt or confession as such cannot be made the sole basis for finding the accused guilty, the reason being he is not making the statement on oath, but all the same the confession or admission of guilt can be taken as a piece of evidence since the same lends credence to the evidence led by the prosecution.

26. We may, however, indicate that the answers given by the accused while examining him under Section 313, fully corroborate the evidence of PW 10 and PW 13 and hence the offences levelled against the appellant stand proved and the trial court and the High Court have rightly found him guilty for the offences under Sections 326, 436 and 302 read with Section 34 IPC."

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36. Therefore, the fact that the accused was driving the vehicle at the time of the accident was duly proved.

37. The prosecution's witnesses consistently stated that the car bearing registration No. HP-39B-2236 overtook another car and hit the motorcycle on the wrong side of the road. These statements are duly corroborated by the site plan (Ex.PW8/B) in which the car is shown towards the right side of the central line. The photographs of the spot also show that the car had crossed the central line, and it was towards the right side of the road. The learned Trial Court held that 5 feet 5-inch road was available towards the left side of the motorcycle, and the motorcyclist could have avoided the accident by driving the motorcycle towards the left side of the road. These findings cannot be sustained because Learned Trial Court had failed to notice the Rules of the Road Regulations, 1989, while recording these findings. Rule 6 of the Rules of the Road Regulations, 1989 provides that the driver of a motor vehicle shall not pass a vehicle travelling in the same direction as himself if his passing is likely to cause inconvenience or danger to other traffic proceeding in any direction. It was laid down by the Punjab and Haryana High Court in ***Shammi Malik v. Amrik Singh*, *1997 SCC***

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OnLine P&H 1266: (1998) 2 RCR (Civil) 14 (2) that the driver of the vehicle cannot overtake when another vehicle is coming from the opposite side. It was observed at page 15:

> "**5.** ...Regulation 6 of the Rules of the Road Regulations, 1989, provides that the driver of a motor vehicle shall not pass a vehicle travelling in the same direction if the driver ahead of him has not signalled that he may be over-taken and if his passing is likely to cause inconvenience or danger to other traffic proceeding in any direction. In this case, it is not the case of the truck driver that the driver of the car had given him a signal that he may be overtaken. In fact, the truck driver should not have overtaken the car when he had noticed a truck coming from the opposite direction. It is also not the case of the truck driver that the car driver did not apply the brakes or did not slow the vehicle. Rather, it is the case of the truck driver that the speed of the car was slow. A Division Bench of the Mysore High Court in ***K.N. Nithyananda v. Mysore State Agro Industries Corporation, by its Managing Director Bangalore and another, AIR 1973 Mysore 314***, in context with Regulation 4 (now Regulation 6), has held that the drivers of automatically propelled vehicles, when attempting to overtake vehicles going ahead of them should wait for the proper opportunity viz., slackness in traffic on the same road before doing so. They are duty-bound to exercise sufficient care and caution by looking ahead and behind in order to ascertain that it would be safe for them to overtake such a vehicle. A further duty is cast on them to give a proper signal to the driver of the vehicle ahead in order to indicate that they would be overtaking the vehicle and wait for a reply signal from the driver permitting them to overtake and thereby indicating that the road is clear and there would be no danger in overtaking. The evidence of RW-1, Amrik Singh, a truck driver, makes it abundantly clear that he did not at all exercise any caution while overtaking the Maruti car or

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while stopping his vehicle all of a sudden. In these circumstances, I have no hesitation in holding that Amrik Singh, a truck driver, was not only rash in the manner of driving the truck while overtaking the Maruti car but was also negligent in stopping his vehicle all of a sudden, thereby causing the accident."

38. A similar view was taken by this Court in ***State of H.P. vs Piar Chand 2003 (2) Shim. LC 341***, wherein it was observed:

"19. In ***Raj Kumar v. State of H.P. 1997 (2) Sim. L.C. 161***, learned single Judge of this Court, while dealing with a similar situation, has held as under: -

> "13. It goes without saying that the drivers of automatically propelled vehicles, when attempting to overtake vehicles going ahead of them, ought to wait for the proper opportunity. A duty is cast on them to exercise sufficient care and caution by looking ahead and behind in order to ascertain that it would be safe for them to overtake the vehicle moving ahead of them. A further duty is cast on them to give a proper signal to the driver of the vehicle ahead in order to indicate that they would be overtaking the vehicles and wait for a reply signal from that driver permitting them to overtake and thereby indicating that the road ahead is clear and there would be no danger in overtaking. If these minimum precautions are not observed by drivers of automatically propelled vehicles, while overtaking the vehicles going ahead of them, it will have to be considered that such driving is rash and negligent."

20. In the case in hand, the accused, while overtaking the truck, was required to take the minimum precaution to have awaited for proper opportunity to overtake the truck and taking necessary caution to see whether any vehicle was not coming from the opposite side and to give a proper signal to the driver of the truck and wait for a reply

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> signal from the driver of the truck. This has not been done by the accused and, therefore, he was negligent in driving the Jeep."

39. In the present case, the accused overtook the car and hit the motorcycle coming from the opposite side; therefore, he had breached Rule 6 of the Rule of Road Regulations, which was the proximate cause of the accident.

40. It has been proved on record that the accused had driven the car towards the right side of the road and had crossed the central line. It was laid down in ***Fagu Moharana vs. State, AIR 1961 Orissa 71,*** that driving the vehicle on the right side of the road amounts to negligence. It was observed:

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

41. In ***Shakila Khader v. Nausheer Cama, (1975) 4 SCC 122: 1975 SCC (Cri) 379: 1975 SCC OnLine SC 103,*** the car went to the right side of the road, hit the parapet and turned turtle. It was

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held by the Hon'ble Supreme Court that the driver was negligent. It was observed at page 126:

> "**6.** The facts in the case speak eloquently about what should have happened. The main criterion for deciding whether the driving that led to the accident was rash and negligent is not only the speed but also the width of the road, the density of the traffic, and the attempt, as in this case, to overtake the other vehicles, resulting in going to the wrong side of the road and being responsible for the accident. Even if the accident took place in the twinkling of an eye, it is not difficult for the eyewitness to notice a car overtaking other vehicles and going to the wrong side of the road and hitting a vehicle travelling on that side of the road. The criterion adopted by the learned Judge for assessing the evidence of PWs 3 and 4 and rejecting them is thoroughly unjustifiable. There may be cases where it is difficult to be clear or specific in giving details as to the cause of the accident, but this is not one such case. The reference by the learned Judge about the slight damage to the electric post and the conclusion drawn therefrom that the car could not have been going at a high speed is not correct, as we shall show later. His further observation that the fact that the car travelled another 45 feet and hit against the parapet wall and turned turtle showed that the car must have been travelling at an extremely high speed but there is a little blue paint on the pole and a faint gray stain on the parapet wall is self-contradictory unless we are to infer that the learned Judge implied that the one or the other is not true. He does not so hold. There can be no doubt about the car having hit the electric post and the parapet wall. That and the fact of its overturning would establish the rash and negligent driving. A car driven normally and travelling behind a bus does not go to the opposite side of the road, hit an electric post and parapet wall, and turn turtle. The car apparently stopped only because it turned turtle. It did not hit the electric post or the parapet wall full tilt; if it did, it would have stopped at

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> one of those points. We should remember that the collision with the scooter and pushing it back would have considerably reduced the speed of the car. Even so, it travelled farther. The slight damage to the electric post and the parapet wall is because the car hit them sideways. Nobody has suggested that they were brought into existence for this case. The car would probably not have stopped but for turning turtle, and it should have been travelling quite fast before it could overturn, as the learned Judge himself realises. There is only one conclusion possible on the facts of this case, and that is that the accused came over to the wrong side of the road and was responsible for the accident, and that is clearly a rash and negligent act in the condition of the road and the condition of the traffic."

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

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

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

> "16. The evidence in the present case has to be examined in light of the aforesaid law laid down by the Apex Court. In the present case, some factors stand out clearly. The width of the pucca portion of the road was 10 ft. 6 inches. On the left side, while going from Dangri to Kangoo, there

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> was a 7 ft. kacha portion, and on the other side, there was an 11 ft. kacha portion. The total width of the road was about 28 ft. The injured person was coming from the Dangri side and was walking on the left side of the road. This has been stated both by the injured and by PW-6. This fact is also apparent from the fact that after he was hit, the injured person fell into the drain. A drain is always on the edge of the road. The learned Sessions Judge held, and it has also been argued before me, that nobody has stated that the motorcycle was on the wrong side. This fact is apparent from the statement of the witnesses, who state that they were on the extreme left side, and the motorcycle, which was coming from the opposite side, hit them. It does not need a genius to conclude that the motorcycle was on the extreme right side of the road and therefore on the wrong side."

44. The accused had breached the Rule of the Road Regulations requiring him to drive the car towards the left side of the road, and he was negligent.

43. Learned Trial Court held that the witnesses admitted that 40-50 persons had gathered on the spot. However, the prosecution failed to examine them, and an adverse inference is to be drawn against the prosecution. This finding is also not sustainable. The people gathered on the spot after the accident, and their testimonies would not have revealed the cause of the accident. Hence, no adverse inference can be drawn for their non-examination.

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44. Learned Trial Court held that the statements of the witnesses were not reliable, because of contradictions in the number of people travelling in the car, or failure to disclose the ownership of the car. These matters related to the minor details surrounding the incident and could not have been used to discard the prosecution's case. Hon'ble Supreme Court held in ***Rajan v. State of Haryana, 2025 SCC OnLine SC 1952,*** that the discrepancies in the statements of the witnesses are not sufficient to discard the prosecution case unless they shake the core of the testimonies. It was observed: -

> "**32.** The appreciation of ocular evidence is a hard task. There is no fixed or straitjacket formula for the appreciation of the ocular evidence. The judicially evolved principles for the appreciation of ocular evidence in a criminal case can be enumerated as under:
>
> > *"I. While appreciating the evidence of a witness, the approach must be whether the evidence of the witness, read as a whole, appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the Court to scrutinize the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief.*
> >
> > *II. If the Court before whom the witness gives evidence had the opportunity to form the opinion about the general tenor of evidence given by the witness, the*

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appellate court which had not this benefit will have to attach due weight to the appreciation of evidence by the trial court and unless there are reasons weighty and formidable it would not be proper to reject the evidence on the ground of minor variations or infirmities in the matter of trivial details.

III. When an eye-witness is examined at length, it is quite possible for him to make some discrepancies. But courts should bear in mind that it is only when discrepancies in the evidence of a witness are so incompatible with the credibility of his version that the court is justified in jettisoning his evidence.

IV. Minor discrepancies on trivial matters not touching the core of the case, a hyper-technical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical error committed by the investigating officer, not going to the root of the matter, would not ordinarily permit rejection of the evidence as a whole.

V. Too serious a view to be adopted on mere variations falling in the narration of an incident (either as between the evidence of two witnesses or as between two statements of the same witness) is an unrealistic approach for judicial scrutiny.

VI. By and large, a witness cannot be expected to possess a photographic memory and to recall the details of an incident. It is not as if a videotape is replayed on the mental screen.

VII. Ordinarily, it so happens that a witness is overtaken by events. The witness could not have anticipated the occurrence, which so often has an element of surprise. The mental faculties, therefore, cannot be expected to be attuned to absorb the details.

VIII. The powers of observation differ from person to person. What one may notice, another may not. An object or movement might emboss its image on one

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person's mind, whereas it might go unnoticed on the part of another.

IX. By and large, people cannot accurately recall a conversation and reproduce the very words used by them or heard by them. They can only recall the main purport of the conversation. It is unrealistic to expect a witness to be a human tape recorder.

X. In regard to the exact time of an incident, or the time duration of an occurrence, usually, people make their estimates by guesswork on the spur of the moment at the time of interrogation. And one cannot expect people to make very precise or reliable estimates in such matters. Again, it depends on the time sense of individuals, which varies from person to person.

XI. Ordinarily, a witness cannot be expected to recall accurately the sequence of events that take place in rapid succession or in a short time span. A witness is liable to get confused or mixed up when interrogated later on.

XII. A witness, though wholly truthful, is liable to be overawed by the court atmosphere and the piercing cross-examination by counsel and, out of nervousness, mix up facts, get confused regarding the sequence of events, or fill in details from imagination on the spur of the moment. The subconscious mind of the witness sometimes operates on account of the fear of looking foolish or being disbelieved, though the witness is giving a truthful and honest account of the occurrence witnessed by him.

XIII. A former statement, though seemingly inconsistent with the evidence, need not necessarily be sufficient to amount to a contradiction. Unless the former statement has the potency to discredit the latter statement, even if the latter statement is at variance with the former to some extent, it would not be helpful to contradict that witness." [See ***Bharwada Bhoginbhai Hirjibhai v. State of Gujarat (1983) 3 SCC***

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217: 1983 Cri LJ 1096: (AIR 1983 SC 753) Leela Ram v. State of Haryana (1999) 9 SCC 525: AIR 1999 SC 3717 and *Tahsildar Singh v. State of UP (AIR 1959 SC 1012)"*

45. In the present case, the discrepancies did not shake the prosecution's case and could not have been used to discard it.

46. Thus, it was duly proved that the accused was driving the car bearing registration No. HP-39B-2236 in breach of the Rules of the Road Regulations, which led to the accident. Therefore, the prosecution had succeeded in proving its case beyond a reasonable doubt for the commission of an offence punishable under Section 279 of the IPC.

47. The learned counsel for the accused admitted the MLCs and treatment summary, which show that Sada Nand had sustained simple injuries, and Vivek had sustained grievous injuries. These injuries were caused due to rash and negligent driving of the accused; hence, the prosecution has successfully proved its case beyond a reasonable doubt for the commission of Sections 337 and 338 of the IPC.

48. The learned Trial Court ignored the evidence on record and failed to notice the Rules of Road Regulations. It took

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a view which could not have been taken by any reasonable person aware of the Rules of the Road Regulations and the judgment passed by the learned Trial Court, acquitting the accused for the commission of offences punishable under Section 279, 337 and 338 IPC, cannot be sustained.

49. In view of the above, the prosecution has succeeded in proving its case beyond a reasonable doubt for the commission of offences punishable under Sections 279, 337 and 338 of the IPC; hence, the appeal is allowed, and the accused is convicted of the commission of offences punishable under Sections 279, 337 and 338 of the IPC.

50. Let the accused be produced before this Court for hearing him on the quantum of sentence on 23rd March, 2026.

(Rakesh Kainthla)
Judge

24th February, 2026
(DKS)