
(2021) 08 SHI CK 0132
In the High Court Of Himachal Pradesh
Case No : Criminal Appeal No.238 Of 2010

State Of Himachal Pradesh

APPELLANT

Vs

Raj Kumar

RESPONDENT

Date of Decision : 12-08-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 154, 313
Indian Penal Code, 1860 — Section 279, 337, 338

Citation : (2021) 08 SHI CK 0132

Hon'ble Judges : Anoop Chitkara, J

Bench : Single Bench

Advocate : Nand Lal Thakur, Kunal Thakur, Ram Lal Thakur, Pawan K. Sharma

Final Decision : Dismissed

Judgement

Anoop Chitkara, J

Â 1. Challenging the acquittal for causing hurt on a public way by driving in a rash and negligent manner, the State has come up before this Court.

2. On 19.11.2002, at 5:00 p.m., medical officer of zonal hospital, Kullu, sent a written communication to the SHO, Police Station Kullu. He informed

the police about admission of a child, who got injured in an accident. After that, a police team was sent to the concerned hospital, where statement of

Dabe Ram (PW-1), Ex.PW-2/A, under Section 154 of Cr.P.C. was recorded. The informant stated that on 19.11.2002, at 3.45 p.m., when he was

standing near Post Office at Thalot bazaar, then one Tata Sumo came from the side of Kullu and was going towards Mandi side. The said Tata Sumo

was being driven in a high speed and careless manner. A child was walking on the road. The vehicle hit the child and due to which, he fell down and

sustained injuries. After that, he alongwith another person brought the child in

the same Tata Sumo to hospital. Based on this information, police registered FIR, Ex.PW-7/A, captioned above. The investigator received medico legal certificate, Ex.PW-4/A, from the examining doctor. As per MLC, the injuries were grievous in nature. After completion of the investigation, the officer-in-charge of the police station launched prosecution against the accused.

3. Vide order dated 06.10.2004, learned Judicial Magistrate (JMFC), Mandi, issued notice of accusation for commission of offences punishable under

Sections 279, 337 and 338 of IPC, to which, accused did not plead guilty and claimed trial.

4. During trial, the prosecution examined informant, Dabe Ram as PW-2 and Parmanand, the person who was present at the spot and had carried the

child in the Tata Sumo to the hospital, as PW-1. The prosecution also examined formal witnesses like doctor and investigator and closed the evidence.

5. In his statement recorded under Section 313 of Cr.P.C, the accused admitted that he was driving Tata Sumo at Thalot at about 3:45 p.m., but

denied all other circumstances. However, he did not lead any evidence in defense.

6. Vide judgment, captioned above, learned trial Court dismissed the prosecution case and acquitted the accused of the offences.

7. Challenging the acquittal of the accused, the State has come up before this Court by filing the present appeal.

8. I have heard the learned counsel for the parties and have gone through the record of the case with utmost care.

ANALYSIS AND REASONS

9. The statement of Dabe Ram, Ex.PW-2/A, recorded under Section 154 of Cr.P.C, explicitly reveals that the accident took place on Kullu-Mandi

National Highway and at that time, the child was alone and it was he and another person PW-1, who had brought the injured child to the hospital. PW-

2, Dabe Ram, gave a similar statement on oath during trial. This aspect is also corroborated by the spot witness PW-1, Parmanand. It points out

towards two material aspects. Firstly, the child was left alone on the National Highway and, secondly, that the accused alongwith PW-1 and PW-2,

had taken the child to the hospital, which shows his conduct.

10. PW-2, Dabe Ram, in his cross-examination explicitly stated that the boy suddenly ran across the road with a view to cross it and the driver of Tata

Sumo applied brakes and stopped the vehicle. This specific statement absolves the accused of any rash and negligent act. Thus, the judgment of acquittal passed by learned trial Court does not call for any interference by this Court.

Given above, there is no merit in the present appeal and the same is accordingly dismissed.