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**(2011) 03 SHI CK 0027**  
**In the High Court Of Himachal Pradesh**  
**Case No : Criminal A. No. 60 of 2001**

State of Himachal Pradesh

APPELLANT

Vs

Shiv Lal and Others

RESPONDENT

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**Date of Decision :** 21-03-2011

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 313

**Citation :** (2011) 03 SHI CK 0027

**Hon'ble Judges :** Surjit Singh, J;Rajiv Sharma, J

**Bench :** Division Bench

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## Judgement

Surjit Singh, J.—Heard and gone through the record.

2. What we find in the case, is that examination of the accused, u/s 313 of the Criminal Procedure Code, has not been recorded as per the requirement of law. It has not been recorded in proper sequence, nor does the examination make it clear to the accused as to what is the evidence against them, indicating that they have committed any offence. Examination has been recorded in a manner unknown to law. For example, questions are that given witnesses produced particular documents. How the same were relevant or proved the case was not put to the accused. The contents of those documents and how do those documents prove the case or how do they link the accused with the offence, they were charged with, has also not been put to the accused. This kind of ambiguous, confusing and incoherent examination, does not afford an accused the opportunity to offer any explanation.

3. It is well-known that provision of Section 313, Cr. P.C. is an enabling provision. Its object is to enable the accused to explain facts and circumstances with respect to which, the evidence is led by the prosecution, and if the examination, does not even indicate, what the facts and circumstances are, and how those facts and circumstances prove the charge, it cannot be said that the object of the provision of Section 313, Cr. P.C., has been fulfilled. If a judgment is written with such an examination of accused and he is ultimately held guilty, the judgment

will not be in accordance with law, because the accused is definitely prejudiced in the absence of effective and proper examination, u/s 313, Cr. P.C.

4. In view of the abovestated position, judgment under appeal is set aside and the case is remanded to the trial Court, with a direction to record the examination of the accused, u/s 313, Cr. P.C. afresh in proper and lawful manner, so as to enable the accused to understand, what is the case against them and how the prosecution seeks to connect them with the crime, by means of the evidence adduced by it.

5. Parties are directed to appear before the learned trial Court on 04.04.2011. Trial Court shall dispose of the case within six months from today.