IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr.R No. 62 of 2017
Date of decision:-28th October, 2026

State of Himachal Pradesh ……Petitioner

Versus

Davinder Singh @ Dabu & Ors. …..Respondents

Coram

Hon'ble Mr. Justice Chirag Bhanu Singh, Judge.
[1]Whether approved for reporting?

For the petitioner : Mr. Lokender Kutlehria, Additional Advocate General.

For the respondents : Mr. Rajesh Mandhotra, Advocate.

Chirag Bhanu Singh, Judge (Oral)

The State of Himachal Pradesh has assailed the judgment of acquittal dated 02.05.2016, passed by learned Additional Sessions Judge-II, Shimla, District Shimla upholding the acquittal of the respondents under Sections 332 & 353 read with Section 34 of the Indian Penal Code passed by learned Judicial Magistrate First Class, Court No.1, Shimla.

2. The short grouse espoused by the State is that the

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

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learned First Appellate Court has failed to appreciate that the complainant-Constable Hira Singh was not discharging his official duties at the relevant time and undue weightage was given by the learned Courts below to the minor contradictions in the statements of witnesses resulting in his acquittal. The learned First Appellate Court has also not appreciated the evidence in its right perspective.

3. I have heard learned counsel for the parties and gone through the records meticulously.

4. It is by now fairly well-settled that while exercising the revisional jurisdiction, the powers of this Court are indeed limited and as such would only be limited to check the veracity of the correctness, legality or propriety of the findings so recorded by the learned Courts below. Only if some perversity is noticed the revisional Court would venture to rectify the same. Thus this Court would only focus strictly on the correctness, legality and propriety of the order so passed. In that sense, the Court would rarely interfere with the concurrent findings of fact unless they are entirely perverse. The said legal

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proposition had been settled as far back as in the year 1980 in the celebrated decision of ***Gurbansh Singh Sibbia vs. State of Punjab (AIR 1980 SC 1632).***

5. Undoubtedly, in the present proceedings both the learned Courts below have concurrently held that there was no evidence to remotely show that PW1, the complainant, was present at the spot and that too in the discharge of his official duties. The prosecution thus had failed to prove the basic link. Both the learned Courts below have held that the independent witnesses Madan Lal (PW2) and Varinder Kumar (PW5) have also not supported the prosecution story. Over and apart, both the learned Courts below have noticed sharp contradictions between the testimony of material witnesses including PWs 1, 2, 4 and 5.

6. Both the learned Courts below have further unflinchingly held that the prosecution has failed to proove that PW1 (constable Hira Singh) was discharging his official duty, as a public servant at the time of the occurrence. Even on the reappraisal of the record, nothing to the contrary could be

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highlighted by the learned Additional Advocate General, thus, on the face of it, it can safely be inferred that there is nothing on record to impeach the findings of the learned Courts below vis-a-vis the correctness, legality or propriety in the orders passed. No perversity also could be highlighted by the State, to quash and set aside the well reasoned findings recorded by the learned Courts below.

7. Consequently, the petition sans merit and as a sequel, is dismissed being devoid of any merits. Ordered accordingly. Pending miscellaneous applications, if any, also stand disposed off.

(Chirag Bhanu Singh)
Judge

28.10.2026
(Ritu)

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