(2025) 12 SHI CK 0007

Himachal Pradesh HC

Case No: Criminal Revision No. 2 Of 2015

Joginder Singh		APPELLANT
	Vs	
State Of HP		RESPONDENT

Date of Decision: Dec. 18, 2025

Acts Referred:

- Indian Penal Code, 1860-Section 279, 304A, 337
- Motor Vehicles Act, 1988-Section 180, 181, 187, 196
- Code Of Criminal Procedure, 1973-Section 313, 397, 398, 399, 400, 401, 482
- Evidence Act, 1872-Section 114, 134

Hon'ble Judges: Rakesh Kainthla, J

Bench: Single Bench

Advocate: Jai Ram Sharma, Ajit Sharma

Final Decision: Dismissed

Judgement

Rakesh Kainthla, J

1. The present revision is directed against the judgment dated 21.07.2014, passed by learned Sessions Judge, Solan, District Solan, H.P. (learned Appellate Court), vide which the judgment of conviction dated 25.05.2011 and order of sentence dated 27.05.2011, passed by learned Judicial Magistrate First Class, Court No.2, Nalagarh, District Solan, H.P. (learned Trial Court) were upheld. (Parties shall 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 petition are that the police presented a challan before the learned Trial Court for the commission of offences punishable under Sections 279, 337 and 304-A of the Indian Penal Code (in short IPC) and Sections 181, 187, 196 and 180 of the Motor Vehicles Act (in short MV Ac
). It was asserted that Hardev Singh (PW16) boarded a b s bearing registration No.

HP-12-4175 at Bagheri n 12.05.2006. The bus was overloaded. Some passengers were sitting on the roof of the bus, and some were hanging from the door. The accused was driving the bus at a high speed. He could not control the bus, and the bus hit the br d e at Kashmirpur. Three people died on the spot. The conductor of the bus, namely Nirmal Singh @ Kaku, and one of the passengers, Pyari Devi, sustained injuries. They were taken to the hospital. Nirmal Singh succumbed to his injuries on the way to the hospital. An intimation was given to the police. An entry (Ex. PW13/A) was recorded. ASI Prithvi Singh (PW13) went to the hospital for verification. He went to the spot and took the photographs (Ex. P1 to Ex. P9). HC Hardev Singh recorded the informants statement (Ex. PW9/A), which was sent to the police station, where FIR (Ex. PW9/C) was registered. ASI Prithvi Singh (PW13) investigated the matter. He prepared the site plan (Ex. PW13/B). He seized the bus bearing registration No HP-12-4175 vide memo (Ex. PW13/C). Rajinder Singh (PW11) mechanically examined the vehicle and ound that there was no defect in it that could have led to the accident. He issued the report (Ex. PW11/A). Dr S.S. Bawa (PW7) conducted the postmortem examination of Gu nam Singh and found that he had died due to severe tra matic injury on the skull, chest and abdomen, leading to sh ck and death. He also conducted the postmortem examination of Sunil Kumar and found that he had died due to severe traumatic injury to the skull and brain, leading to failure of higher functions, shock and death. He also conducted the postmortem examination of Nirmal Singh and found that he had died due to multiple fractures leading to hypovolemic shock and cardiorespiratory arrest. He issued the reports (Ex. PW7/A and PW7/B). Dr Sukhwinder Singh (PW8) examined Nirmal Singh and found that he had sustained multiple injuries. He made efforts to resuscitate him but failed. He issued the report (Ex. PW8/B). Dr S.S. Bawa (PW7) conducted the postmortem examination of Chander Mohan and found that the cause of death was due to severe traumatic injury on the skull and chest, leading to severe internal brain damage. He issued the report (Ex. PW7/C). Dr Sukhwinder Singh (PW8) conducted the postmortem examination of Nirmal Singh and found that the cause of death was hypovolemic shock leading to cardiac arrest. ASI Bhup Singh arrested the accused. The accused could not produce a driving licence. Statements of witnesses were recorded as per their ve sion, and after the completion of the investigation, a challan was prepared and presented before the learned Trial Court.

3. Learned Trial Court found sufficient reasons to summon The accused. When the accused appeared, a notice of accusation was put to the accused, Joginder, for the commission of offences punishable under Sections 279, 337 and 304-A of the IPC and Sections 181 and 187 of the MV Act, and to accused Shyam Lal for the commission of offences punishable under Sections 180 and 196 of the MV Act to which they pleaded not guilty and claimed to be tried.

4. The prosecution examined 16 witnesses to prove its case. Ram Rattan (PW1), Vijay Kumar (PW4), Amar Singh (PW15) and Hardev Singh (PW16) were the occupants of the bus. Tara Singh (PW2), Gurmail Singh (PW3), Bachan Singh (PW6) and Pyari Devi

(PW12) did not support the prosecutions case. Phuman (PW5) took the photographs. Dr S.S. Bawa (PW7) and Dr Sukhwinder Singh (PW8) conducted the postmortem examination of the deceased and he medical examination of the injured. HC Visesh Kumar (PW9) egistered the FIR. HC Neelam Kumar (PW10) went to the hospital and recorded the informants statement. Rajinder Singh (PW11) mechanically examined the bus. ASI Prithvi Singh (PW13) investigated the matter. HHC Chet Ram (PW14) proved the entry in the Daily Diary.

5. The accused, Joginder Singh, in his statement recorded under Section 313 of the Cr.P.C., admitted that he was driving the bus and some passengers had died in the accident. He stated that a truck came from the opposite side in a rash and negligent manner. He applied the brakes, and the door opened. Four people standing near the door fell. He was driving the bus at a slow speed. The accused, Shyam Lal, admitted that he was the owner of the bus. He admitted that the insurance of the bus had expired on 02.05.2006. He admitted that the police had seized the bus and prepared the site plan. He did not produce any evidence in defence.

6. The learned Trial Court held that the accused, Joginder Singh, was driving the bus which had met with the accident and that four persons had died in the accident. The informant, Hardev Singh (PW16), ca egorically stated that the accused was driving the b s at a high speed. The driver lost control of the bus, and the bus hit the parapet. The bus was damaged on the left side, which corroborated the informant's version that the left side of the bus had hit the parapet. The defence taken by the accused, that a truck came from the opposite side, was not corroborated by the statement of any person. The mere fact that some of the witnesses did not support the prosecutions case was not sufficient to doubt it. The driver ran away from the spot and did not arrange medical aid for the injured. He did not possess a valid driving licence. Accused No. 2, Shyam Lal, was the owner of the bus, and he permitted accused No. 1, Joginder Singh, to drive the bus without a valid licence. The insurance of the bus had also expired.

Therefore, the learned Trial Court convicted accused No. 1, Joginder Singh, of the commission of offences punishable under Sections 279 and 304-A of the IPC and Section 181 of the MV Act, and sentenced him as under: -

Under Section 279 of IPC	To suffer rigorous imprisonment for a period of six months, pay a fine of ₹1,000/- and in default of payment of fine, to undergo simple imprisonment for a period of ten days.

Under Section 304-A of IPC	To suffer rigorous imprisonment for a period of two years, pay a fine of ₹2,000/- and in default of payment of fine, to undergo simple imprisonment for a period of one fifteen days
Under Section 181 of MV Act	To pay a fine of ₹5,00/- and in default of payment of fine, to undergo simple imprisonment for a period of seven days.
Both the substantive sentences of imprisonment were ordered to run concurrently.	

7. The learned Trial Court convicted the accused No.2, Shyam Lal, of the commission of offences punishable under Sections 180 & 196 of MV Act and sentenced him as under:-

Under Section 180 of MV Act	To pay a fine of ₹1,000/- and in default of payment of fine, to undergo simple imprisonment for a period of ten days.
Under Section 196 of MV Act	To pay a fine of ₹1,000/- and in default of payment of fine, to undergo simple imprisonment for a period of simple (six) days.

8. Being aggrieved by the judgment and order passed by the learned Trial Court, the accused filed an appeal which was decided by the learned Sessions Judge, Solan, District Solan, H.P. (learned Appellate Court). The learned Appellate Court concurred with the findings recorded by the learned Trial Court that accused No. 1, Joginder Singh, was driving the bus in a rash and negligent manner. The b s hit the parapet, causing the deaths of four pe ple. He failed to carry the injured to the hospital. The sentence imposed by the learned Trial Court was adequate, and no interference was required with the judgment and order passed by the learned Trial Court. Accordingly, the appeal was dismissed.

9. Being aggrieved by the judgments and order passed by the learned Courts below, the accused has filed the present revision, asserting that the learned Courts below erred in appreciating the material placed before them. Smt. Pyari Devi (PW12) did not support the prosecutions case. The presence of Hardev Singh (PW16) on the

spot was highly doubtful. The bus was overloaded, but no passenger was examined. The site plan did not depict the correct site position. The Investigating Officer admitted that the accused, Joginder Singh, used to drive the bus, which suggests that he knew how to drive the bus The learned Trial Court had imposed an excessive sentence. Therefore, it was prayed that the present revision be allowed and the judgments and order passed by the learned Courts bel w be set aside.

10. I have heard Mr Jai Ram Sharma, learned counsel for the petitioner/accused, and Mr Ajit Sharma, learned Deputy Advocate General f r the respondent/State.

11. Mr Jai Ram Sharma, learned counsel for the petitioner/accused, submitted that the learned Courts below erred in appreciating the evidence. It was the specific case of the prosecution that 4045 passengers were travelling in the bus. The prosecution withheld the passengers, and an adverse inference has to be drawn against the prosecution. The negligence of the accused was not established. Hence, he prayed that the present revision be allowed and the judgments and order passed by the learned Courts below be set aside. He relied upon the judgments in State of Rajasthan vs. Bhanwar Singh, (2004) 13 SCC 147, Hem Raj vs. State of Haryana, AIR 2005 SC 2010, Jarnail Singh vs. State of Punjab, (2009) 9 SCC 719, and Kali Ram vs. State of Himachal Pradesh, AIR 1973 SC 2773, in support of his submission.

12. Mr Ajit Sharma, learned Deputy Advocate General for the respondent/State, submitted that the accused admitted that he was driving the bus. He could n t pr duce a valid driving licence to drive the bus. The bus had hit the parapet, causing the death of four people and inj ry to one person. The accused failed to provide any explanati n for the delay. This Court should not interfere with the concurrent findings of fact recorded by the learned Courts below. Hence, he prayed that the present revision be dismissed.

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

14. It was laid down by the Honble Supreme Court in Malkeet Singh Gill v. State of Chhattisgarh, (2022) 8 SCC 204: (2022) 3 SCC (Cri) 348: 2022 SCC OnLine SC 786 that a revisional court is not an appellate court and it can only rectify the patent defect, errors of jurisdiction or the law. It was observed at page 207: -

10. Before adverting to the merits of the contentions, at the outset, it is apt to mention that there are concurrent findings of conviction arrived at by two courts after a detailed appreciation of the material and evidence brought on record. The High Court in criminal revision against conviction is not supposed to exercise the jurisdiction like the appellate court, and the scope of interference in revision is extremely narrow. Section 397 of the Criminal Procedure C de (in short CrPC) vests jurisdiction to satisfy i self or himself as to the correctness, legality or p opriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of s ch inferior

court. The object of the provisi n is to set right a patent defect or an error of jurisdicti n r law. There has to be a well-founded error which is to be determined on the merits of individual cases. It is also well settled that while considering the same, the Revisional Court does not dwell at length upon The facts and evidence of the case to reverse those findings.

15. This position was reiterated in State of Gujarat v. Dilipsinh Kishorsinh Rao, (2023) 17 SCC 688: 2023 SCC OnLine SC 1294, wherein it was observed at page 695:

14. The power and jurisdiction of the Higher Court under Section 397 CrPC, which vests the court with the power to call for and examine records of an inferior court, is for the purposes of satisfying itself as to the legality and regularities of any proceeding or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law or the perversity which has crept in such proceedings.

15.It would be apposite to refer to the judgment of this Court in Amit Kapoor v.Ramesh Chander, (2012) 9 SCC 460: (2012) 4 SCC (Civ) 687: (2013) 1 SCC (Cri) 986, where the scope of Section 397 has been considered and succinctly explained as under: (SCC p. 475, paras 12-13)

12. Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect r an error of jurisdiction or law. There has to be a well-founded error, and it may not be appropria e for the court to scrutinise the orders, which, upon the face of it, bear a token of careful conside ation and appear to be in accordance with law. If one looks into the various judgments of this Co rt, it emerges that the revisional jurisdiction can be inv ked where the decisions under challenge are gr ssly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored, or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.

13. Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order. The Court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injustice ex facie. Where the Court is dealing with the question as to whether the charge has been framed properly and in accordance with law in a given case, it may be reluctant to interfere in the exercise of its revisional jurisdiction unless the case substantially falls within the categories aforestated.

Even the framing of the charge is a much-advanced stage in the proceedings under CrPC.

16. It was held in Kishan Rao v. Shankargouda, (2018) 8 SCC 165: (2018) 3 SCC (Cri) 544: (2018) 4 SCC (Civ) 37: 2018 SCC OnLine SC 651 that it is impermissible for the High Court to reappreciate the evidence and come to its conclusions in the absence of any perversity. It was observed at page 169:

12. This Court has time and again examined the scope of Sections 397/401 CrPC and he grounds for exercising the revisional jurisdiction by the High Court. In State of Kerala v. Puttumana Illath Jathavedan Namboodiri, (1999) 2 SCC 452: 1999 SCC (Cri) 275], while considering the scope of the revisi nal j risdiction of the High Court, this Court has laid d wn the following: (SCC pp. 454-55, para 5)

5. In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings to satisfy itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of supervisory jurisdiction exercised by the High Court for correcting a miscarriage of justice. But the said revisional power cannot be equated with the power of an appellate court, nor can it be treated even as a second appellate jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to reappreciate the evidence and come to its conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to a gross miscarriage of justice. On scrutinising the impugned judgment of the High Court from the aforesaid standpoint, we have no hesitation in concluding that the High Court exceeded its jurisdiction in interfering with the conviction of the respondent by reappreciating the oral evidence

13. Another judgment which has also been referred to and relied on by the High Court is the judgment of this Court in Sanjaysinh Ramrao Chavanv. Dattatray Gulabrao Phalke, (2015) 3 SCC 123: (2015) 2 SCC (Cri) 19] . This Court held that the High Court, in the exercise of revisional jurisdiction, shall not interfere with the order of the Magistrate unless it is perverse r wholly unreasonable or there is non-consideration f any relevant material, the order cannot be set aside merely on the ground that another view is possible. The following has been laid down in para 14: (SCC p. 135)

14. Unless the order passed by the Magistrate is perverse or the view taken by the court is wholly unreas nable or there is non-consideration of any relevant material or there is palpable misreading of records, the Revisional Court is not justified in setting aside the order, merely because another view is possible. The Revisional Court is not meant to act as an appellate court. The whole

purpose of the revisional jurisdiction is to preserve the power in the court to do justice in accordance with the principles of criminal jurisprudence. The revisional power of the court under Sections 397 to 401 CrPC is not to be equated with that of an appeal. Unless the finding of the court, whose decision is sought to be revised, is shown to be perverse or untenable in law or is grossly erroneous or glaringly unreasonable or where the decision is based on no material or where the material facts are wholly ignored or where the judicial discretion is exercised arbitrarily or capriciously, the courts may not interfere with the decision in exercise of their revisional jurisdiction.

17. This position was reiterated in Bir Singh v. Mukesh Kumar, (2019) 4 SCC 197: (2019) 2 SCC (Cri) 40: (2019) 2 SCC (Civ) 309: 2019 SCC OnLine SC 13, wherein it was observed at page 205:

16. It is well settled that in the exercise of revisional jurisdiction under Section 482 of the Criminal Procedure Code, the High Court does not, in the absence of perversity, upset concurrent factual indings. It is not for the Revisional Court to re-analyse and re-interpret the evidence on record.

17. As held by this Court in Southern Sales & Services v.Sauermilch Design and Handels GmbH, (2008) 14 SCC 457, it is a well-established p inciple of law that the Revisional Court will not interfere even if a wrong order is passed by a court having j risdiction, in the absence of a jurisdicti nal err r. The answer to the first question is, theref re, in the negative.

18. A similar view was taken in Sanjabij Tari v. Kishore S. Borcar, 2025 SCC OnLine SC 2069, wherein it was observed:

27. It is well settled that in exercise of revisional juris-diction, the High Court does not, in the absence of perver-sity, upset concurrent factual findings [See: Bir Singh(supra)]. This Court is of the view that it is not for the Revisional Court to re-analyse and re-interpret the evidence on record. As held by this Court in Southern Sales & Services v. Sauermilch Design and Handels GMBH, (2008) 14 SCC 457, it is a well-established principle of law that the Revisional Court will not interfere, even if a wrong or-der is passed by a Court having jurisdiction, in the absence of a jurisdictional error.

28. Consequently, this Court is of the view that in the ab-sence of perversity, it was not open to the High Court in the present case, in revisional jurisdiction, to upset the concurrent findings of the Trial Court and the Sessions Court.

19. The present revision has to be decided as per the parameters laid down by the Honble Supreme Court.

20. The informant, Hardev Singh (PW16), stated that he had boarded the bus bearing registration No. P- 12-4175, which was overloaded. People were standing near the doors. The bus reached the bridge at a high speed, and the driver lost

control. The bus hit the pillar of the b idge. Three people died on the spot. One woman and 23 boys sustained injuries. The injured were taken to the h spital. Nirmal Singh @ Kaku died in the accident. The accused was driving the bus at the time of the accident. His negligence and the high speed of the bus led to the accident. He stated in his cross-examination that the front door of the bus was damaged. The rear door was closed, and the passengers were standing near the rear door. The conductor was also standing near the rear door. The door opened after hitting the bridge. He admitted that the door hit the parapet and the passengers fell. He admitted that the passengers were sitting on the roof of the bus, and they fell from the roof of the bus.

21. Rajinder Singh (PW11) mechanically examined the bus and found that the left side was damaged. All the glasses were broken by the impact of the bus hitting the pillar of the bridge. The rear door came off after the accident. He stated in his cross-examination that the rear door opened near the bridge and hit the pillar. He admitted that the ront door was also damaged. The condition of the bus was n t r adworthy, and the bus could not be driven on the road.

22. Gurmail Singh (PW3) stated that he was the driver of the bus bearing registration No. HP-12-4175. The accused Shyam Lal is the owner of the bus. He (Gurmail Singh) parked the bus in the workshop because the door, etc., were to be repaired. He did not know who was driving the bus on the date of the accident. Accused Joginder Singh was the conductor. He had handed over the key to Joginder Singh. He was permitted to be cross-examined. He admitted that Joginder Singh was driving the bus on the date of the accident and that the bus did not have a second driver. His testimony shows that the bus was defective and was parked in the workshop for repair. His testimony corroborates the statement of the mechanic that the bus was not roadworthy.

23. The statements of the informant and the mechanical expert show that the front door of the bus was damaged and the bus was not roadworthy. The suggestion that the bus was overloaded and the rear door opened due to the overloading of the bus corroborates the informants statement that the bus was overloaded. Driving an overloaded bus which was not roadworthy by itself constitutes negligence.

24. Pyari Devi (PW12) stated that she was travelling in the bus. The bus had no door. The bus hit the bridge near Kashmirpur Bridge. Four people fell onto the road. The accident occurred due to the high speed of the bus. The bus was overloaded. However, she could not specify the number of passen ers. She stated in her cross-examination that she was sitting in the seat behind the driver. Some passengers were standing, and some were sitting. She did not know how the rear door of the bus was opened.

25. The statement of this witness that the accused was driving the bus at a high speed and could not control it was not challenged in the cross-examination and is

deemed to be accepted as correct. Her statement also corroborates the informants version that the bus was overloaded and the passengers fell after the bus had hit the pillar of the bridge.

26. The site plan (Ex. PW13/B) shows that the parapet had marks of dragging. The bus was damaged after it had hit the parapet. The rear door was lying on the bridge.

27. The photographs (Ex. P1 to Ex. P9) show that the door of the bus is lying on the b idge. The left side of the bus is severely damaged. The windscreen and window glass on the left side are missing. These photographs corroborate the prosecutions version that the bus had hit the parapet of the bridge and its left side was damaged.

28. The photographs show that sufficient space was ava lable on the right side of the bus. The site plan (Ex. PW13/B) shows the width of the bridge as 20 feet, and two vehicles could easily pass over it. Driving the bus to the extreme left and hitting the parapet, despite sufficient space being available on the right side, shows the negligence of the accused in driving the bus.

29. Ram Rattan (PW1) stated that the accused was driving the bus. The bus was overloaded. Passengers were travelling on the roof; therefore, he did not board the bus. He boarded the tempo, which was moving behind the bus. The bus was parked at Kashmirpur. Three boys had died. The accused was not present on the spot. This witness had not witnessed the accident and, his testimony does not establish the negligence of the accused. However, his testimony shows that the accused was driving the bus, which was heavily verloaded, and the passengers were sitting on the roof of he bus.

30. Tara Singh (PW2) received the dead body of the conductor and had n t witnessed the accident.

31. Vijay Kumar (PW4) stated that the bus had met with an accident at the Kashmirpur Bridge. When he reached the spot, The people were being taken to the hospital. He stated in h s cross-examination that he had reached the spot after half an hour, which shows that he was not an eyewitness, and his testimony does not establish the negligence of the accused.

32. Bachhan Singh (PW6) also admitted in his cross-examination that he had reached the spot after the accident. Thus, he is not an eyewitness and his testimony does not prove the prosecutions case.

33. It was submitted that the prosecution has not examined the passengers and that an adverse inference should be drawn for withholding the passengers. This submission will not help the accused. It was laid down by the Honble Supreme Court in Pohlu v. State of Haryana, (2005) 10 SCC 196, that the intrinsic worth of the testimony of witnesses has to be assessed by the Court, and if the testimony of the witnesses appears to be truthful, the non-examination of o her witnesses will not make the testimony doubtful. It was observed: -

[10]..It is true that it is not necessary for the prosecution to multiply witnesses if it prefers to rely upon the evidence of eyewitnesses examined by it, which it considers sufficient to prove the case of the prosecution. However, the intrinsic worth of the testimony of the witnesses examined by the prosecution has to be assessed by the Court. If their evidence appears to be truthful, reliable and acceptable, the mere fact that some other witnesses have not been examined will not adversely affect the case of the prosecution

34. This position was reiterated in Rohtash vs. State of Haryana 2013 (14) SCC 434, and it was held that the prosecution is not bound to examine all the cited witnesses, and it can drop witnesses to avoid multiplicity or plurality of witnesses. It was observed:

23. Thus, the prosecution is not bound to examine all the cited witnesses, and it can drop witnesses to avoid multiplicity or plurality of witnesses. The accused can also examine the cited, but not examined, witnesses, if he so desires, in his defence. It is the discretion of the prosecutor to tender the witnesses to prove the case of the prosecution, and "the court will not interfere with the exercise of that discretion unless, perhaps, it can be shown that the prosecution has been influenced by some oblique motive." In an extraordinary situation, if the court comes to the conclusion that a material witness has been withheld, it can draw an adverse inference against the prosecution, as has been pr vided under Section 114 of the Evidence Act. Undoubtedly, the public prosecutor must not take the libe y to "pick and choose" his witnesses, as he must be fair to the court, and therefore, to the truth. In a given case, the Court can always examine a witness as a co rt witness if it is so warranted in the interests f justice. The evidence of the witnesses must be tested n the t uchstone of reliability, credibility and trustworthiness. If the court finds the same to be untruthful, there is no legal bar for it to discard the same.

35. This position was reiterated in Rajesh Yadav v. State of U.P., (2022) 12 SCC 200: 2022 SCC OnLine SC 150, wherein it was observed at page 224: -

Non-examination of the witness

34. A mere non-examination of the witness per se will not vitiate the case of the prosecution. It depends upon the quality and not the quantity of the witnesses and their importance. If the court is satisfied with the explanation given by the prosecution, along with the adequacy of the materials, sufficient to proceed with the trial and convict the accused, there cannot be any prejudice. Similarly, if the court is of the view that the evidence is not screened and could well be produced by the other side in support of its case, no adverse inference can be drawn. The onus is on the party that alleges that a witness has not been produced deliberately to prove it.

35. The aforesaid settled principle of law has been laid down in Sarwan Singh v. State of Punjab, (1976) 4 SCC 369: 1976 SCC (Cri) 646]: (SCC pp. 377-78, para 13)

13. Another circumstance which appears to have weighed heavily with the Additional Sessions Judge was that no independent witness of Salabatpura had been examined by the pr secution to prove the prosecution case of assault on the deceased, although the evidence shows that there were some persons living in that locality like the pakodewalla, hotelwalla, shopkeeper and some of the passengers who had alighted at Salabatpura with the deceased. The Additional Sessions Judge has drawn an adverse inference against the prosecution for its failure to examine any of those witnesses. Mr Hardy has adopted this argument. In our opinion, the comments of the Additional Sessions Judge are based on a serious misconception of the correct legal position. The onus of proving the prosecution's case rests entirely on the prosecution, and it follows as a logical corollary that the prosecution has complete liberty to choose its witnesses if it is to prove its case. The court cannot compel the prosecution to examine one witness or the other as its witness. At most, if a material witness is withheld, the court may draw an adverse inference against the prosecution. But it is not the law that the omission to examine any and every witness, even on minor points, would undoubtedly lead to rejection of the prosecution's case or drawing of an adverse inference against the prosecution. The law is well-settled that the prosecution is bound to produce only such witnesses as are essential for the unfolding of the prosecution narrative. In other words, before an adverse inference against the prosecution can be drawn, it must be proved to the satisfaction of the court that the witnesses who had been withheld were eyewitnesses who had actually seen the occurrence and were therefore material to prove the case. It is not necessary for the prosecution to multiply witnesses after witnesses on the same point; it is the quality rather than the quantity of the evidence that matters. In the instant case, the evidence of the eyewitnesses does not suffer from any infirmity or any manifest defect on its intrinsic merit. Secondly, there is nothing to show that at the time when the deceased was assaulted, a large cr wd had gathered, and some of the members of the cr wd had actually seen the occurrence and were cited as witnesses for the prosecution and hen withheld. We must not forget that in our count y, there is a general tendency amongst the witnesses in mofussil to shun giving evidence in co rts because of the cumbersome and dilat ry pr cedure of our courts, the harassment to which they are subjected by the police and the searching cross-examination which they have to face before the courts. Therefore, nobody wants to be a witness to a murder or any serious offence if they can avoid it. Although the evidence does show that four or five persons had alighted from the bus at the time when the deceased and his companions got down from the bus, there is no suggestion that any of those persons stayed

on to witness the occurrence. They may have proceeded to their village homes. (emphasis supplied)

36. This Court has reiterated the aforesaid principle in Gulam Sarbar v.State of Bihar, (2014) 3 SCC 401: (2014) 2 SCC (Cri) 195]: (SCC pp. 410-11, para 19)

19. In the matter of the appreciation of evidence of witnesses, it is not the number of witnesses but the quality of their evidence which is important, as there is no requirement under the Law of Evidence that any particular number of witnesses is to be examined to prove/disprove a fact. It is a time-honoured principle that evidence must be weighed and not counted. The test is whether the evidence has a ring of truth, is cogent, credible, trustworthy or otherwise. The legal system has emphasised the value provided by each witness, rather than the multiplicity or plurality of witnesses. It is quality and not quantity which determines the adequacy of evidence, as has been provided by Secti n 134 of the Evidence Act. Even in probate cases, where the law requires the examination of at least one attesting witness, it has been held that the production of more witnesses does not carry any weight. Th s, conviction can even be based n the testimony of a sole eyewitness if the same inspires confidence. (Vadivelu Thevar v.State of Madras, 1957 SCR 981: AIR 1957 SC 614, Kunjuv.State of T.N. (2008) 2 SCC 151 : (2008) 1 SCC (Cri) 331, Bipin Kumar Mondalv.State of W.B., (2010) 12 SCC 91 : (2011) 2 SCC (Cri) 150, Maheshv.State of M.P., (2011) 9 SCC 626 : (2011) 3 SCC (Cri) 783, Prithipal Singh v. State of Punjab, (2012) 1 SCC 10 : (2012) 1 SCC (Cri) 1 and Kishan Chand v.State of Haryana, (2013) 2 SCC 502 : (2013) 2 SCC (Cri) 807.

36. In the present case, the prosecution has relied upon the circumstances to prove its case, which is independently proved by the site plan and the photographs. Therefore, the non-examination of the passengers would not be material.

37. The judgments cited on behalf of the accused, that an adverse inference should be drawn for non-examination of the witnesses, will not help him because the statements of the witnesses in the present case are consistent and duly corroborated by the circumstantial evidence; therefore, no adverse inference can be drawn for the non- examination of the witnesses.

38. The accused admi ed in his statement recorded under Section 313 of the Cr.P.C. that he was driving the bus at the time of the accident. He explained that one truck came from the passage side. He applied the brakes, and the door opened. Four people standing near the rear door fell from it. The door struck against The wall of the bridge. Thus, the accused did not dispute the fact that he was driving the bus at the time of the accident. The explanation provided by him that the door opened after he had applied the brakes is not acceptable because the bus had suffered damage on its entire left side, including the front windscreen, which shows that the left side of the bus had hit the bridge. Thus, the explanation provided by the

accused that the door opened and hit the bridge cannot be accepted.

39. Thus, the learned Courts below had rightly held that the accused was negligent in taking the bus towards the extreme left side of the road and hitting the parapet.

40. Doctor S.S. Bawa (PW7) and Dr Sukhwinder Singh (PW8) conducted the postmortem of Sunil Kumar, Chander Mohan, Gurnam Singh, and Nirmal Singh and concluded that they had died due to the injuries sustained in a road accident.

They admitted in their c oss-examination that the injuries could be caused by a fall. This will not help the defence because the admitted case f the prosecution is that the passengers had fallen after the rear door fell off due to the impact. Thus, this circumstance corroborates the prosecutions version and not the defence version.

41. The accused, Joginder Singh, failed to produce any driving licence authorising him to drive the bus; therefore, the learned Trial Court had rightly convicted him of the commission of the offences punishable under Sections 279 and 304-A of the IPC and Section 181 of the MV Act.

42. The learned Trial Court sentenced the accused, Joginder Singh, to undergo rigorous imprisonment for six months for the commission of an offence punishable under Section 279 of the IPC and two years for the commission of an offence punishable under Section 304-A of the IPC.

43. It was laid down by the Hon'ble Supreme Court in Dalbir Singh Versus State of Haryana (2000) 5 SCC 82 that a deterrent sentence is to be awarded to a person convicted of rash or negligent driving. It was observed:

11. Courts must bear in mind that when any plea is made based on S. 4 of the PO Act for application to a convicted person under S. 304-A of I.P.C., road accidents have proliferated to an alarming extent, and the toll is galloping up day by day in India and that no solution is in sight n r suggested by any quarters to bring them down. When this ourt lamented two decades ago that "more people die of road accidents than by most diseases, so much so the Indian highways are among the top killers of the country, the saturation of accidents was not even half of what it is today. So V. R. Krishna Iyer, J., has suggested in the said decision, thus :

"Rashness and negligence are relative concepts, not absolute abstractions. In our current conditions, the law under S. 304-A, I.P.C. and under the rubric of negligence, must have due regard to the fatal frequency of rash driving of heavy-duty vehicles and speeding menaces."

12. In State of Karnataka v. Krishna alias Raju (1987) 1 SCC 538 this Court did not allow a sentence of fine, imposed on a driver who was convicted under S. 304-A, I.P.C. to remain in force although the High Court too had confirmed the said sentence when an accused was convicted of the offence of driving a bus

callously and causing the death of a human being. In that case, this Court enhanced the sentence to rigorous imprisonment for six months besides imposing a fine.

13. Bearing in mind the galloping trend in road accidents in India and the devastating consequences of visiting the victims and their families, Criminal Courts cannot treat the nature of the offence under S. 304-A, I.P.C. as attracting the benevolent provisions of S. 4 of the PO Act. While considering the quantum of sentence to be imposed for the offence of causing death by rash or negligent driving of automobiles, one f the prime considerations should be deterrence. A pr fessi nal driver pedals the accelerator of the au omobile almost throughout his working hours. He must constantly inform himself that he cannot afford to have a single moment of laxity or inattentiveness when his leg is on the pedal of a vehicle in locomotion. He cannot and should not take a chance thinking that rash driving need not necessarily cause an accident, r even if any accident occurs it need not necessarily result in the death of any human being, or even if such death ensues he might not be convicted of the offence, and lastly, that even if he is convicted he would be dealt with leniently by the Court. He must always keep in mind the fear psyche that if he is convicted of the offence of causing the death of a human being due to his callous driving of a vehicle, he cannot escape from a jail sentence. This is the role which the Courts can play, particularly at the level of trial Courts, for lessening the high rate of motor accidents due to the callous driving of automobiles.

44. A similar view was taken in State of Punjab v. Balwinder Singh, (2012) 2 SCC 182, wherein it was held: -

13. It is a settled law that sentencing must have a policy of correction. If anyone has to become a good driver, they must have better training in traffic laws and moral responsibility, with special reference to the potential injury to human life and limb. Considering the increased number of road accidents, this Court, on several occasions, has reminded the criminal courts dealing with the offences relating to motor accidents that they cannot treat the nature of the offence under Section 304-A IPC as attracting the benevolent provisions of Section 4 of the Probation of Offenders Act, 1958. We fully endorse the view expressed by this Court in Dalbir Singh [(2000) 5 SCC 82: 2004 SCC (Cri) 1208].

45. Similarly, the judgment in State of Punjab v. Saurabh Bakshi, (2015) 5 SCC 182: (2015) 2 SCC (Cri) 751: 2015 SCC OnLine SC 278, wherein it was observed at page 196:

25. Before parting with the case, we are compelled to observe that India has a disreputable record of road accidents. There is a nonchalant attitude among the drivers. They feel that they are the Emperors of all they survey.

Drunkenness contributes to careless driving, where other people become their prey. The poor feel that their lives are not safe, the pedestrians think of uncertainty, and the civilised persons drive in constant fear, but are still apprehensive about the obnoxious attitude of the people who project themselves as larger than life. In such circumstances, we are bound to observe that the lawmakers should scrutinise, relook and revisit the sentencing policy in Section 304-A IPC. We say so with immense anguish.

46. In the present case, four persons died due to the negligence of the accused, and the sentence of two years cannot be said to be excessive, requiring any interference from this Court.

47. In view of the above, the present revision fails, and the same is dismissed.

48. The observations made herein before shall remain confined to the disposal of the petition and will have no bearing, whatsoever, on the merits of the case.