

For the appellant: Mr.J.S.Guleria, Law Officer.

For respondent: M/s.Y.Paul & Dinesh Sharma,  
Advocates.

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**Deepak Gupta, J.(oral)**

The present appeal by the State under Section 378 of the Code of Criminal Procedure has been filed against the judgment dated 23.4.1999 passed by learned Chief Judicial Magistrate, Solan, District Solan, H.P. in Criminal Case No.95/2 of 1995 whereby he has acquitted the accused of having committed an offence under Sections 279/337 of the Indian Penal Code.

Admittedly a collision between two scooters took place on 25.2.1995 at about 1.45 p.m. on the public high-way in the area of Jagjit Nagar. The accused was driving scooter No.HPA-331. Mast Ram, complainant was pillion rider on Scooter No.HIA-1604. The said scooter was being driven by Nikka Ram. Though the accident took place at 1.45 p.m. on 25.2.1995, the police admittedly visited the spot the next day i.e. on 26.2.1995. The spot map was prepared on the next day and the

witnesses.

PW-10 Nikka Ram does state that the accused was coming on the wrong side of the road. However, his version cannot be accepted at its face value. Nikka Ram had not reported the matter to the police. PW-3 Ashok Messy was produced. He is an employee of the same bank in which Nikka Ram was working. Even his statement does not inspire confidence. According to this witness he had reached the site of the accident within 10 minutes of the accident. He further states that the police had already reached by the time he reached. This is in total contradiction of the admitted case of the I.O. and the police that they came on the spot on the next day. Therefore, no reliance can be placed on the statement of aforesaid witness.

PW-15 Mast Ram on whose complaint the FIR was lodged has also stated that Tilak Raj accused was driving the scooter on the wrong side. Other than this statement there is no other allegation of negligence.

In view of the above discussion, the appeal is  
without any merit and is accordingly dismissed. Bail  
bonds furnished by the accused are discharged.

**March 28, 2006.**  
**PV**

**( Deepak Gupta ),**  
**Judge**