

Presented on : 20/10/2022
Registered on : 20/10/2022
Decided on : 25/10/2024
Duration : YY MM DD
02 00 05

	<u>IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS AT JALGAON JAMOD, DIST. BULDANA</u>	
	Presided Over By Chandramohan Mohan Kharkar	
	Date of Judgment	25/10/2024
	Summary Criminal Case No.	718/2022 CNR No : MHBU090011372022
	FIR No.	324/2022 Registered For the offence punishable U/sec. 279, 337, 338, 427 of the Indian Penal Code, 1860 & section 134 Punishable U/sec. 177 of the Motor Vehicles Act.
	Police Station.	Jalgaon Jamod Police Station, Dist. Buldana

Complainant		The State of Maharashtra. Through P.S.O. Jalgaon Jamod, Police Station, Tq. Jalgaon Jamod, Dist. Buldana
Represented By		Ld. A.P.P. Mr. S.R. Sahu
Accused.		Chetan Arjun More Age:- 21 years, Occupation:- Education R/o. Asalgaon, Jalgaon Jamod, District:- Buldana
Represented By		Ld. Adv. A. P. Wankhede

Part “B”	
Date of offence	24/05/2022
Date of FIR	02/06/2022
Date of Charge-sheet	18/10/2022
Date of Framing Charge	13/01/2023
Date of Commencement of Evidence	26/06/2023
Date of which the Judgment is reserved	NIL
Date of Judgment	25/10/2024
Date of sentencing Order if any.	Nil

Accused Details.							
Ran k of the Accu sed.	Name of the Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428, Cr.PC.
01.	Chetan Arjun More	Released on Notice U/sec. 41 dated 06/06/ 2022	13/01/ 2023	offence punishable U/sec. 279, 337, 338, 427 of the Indian Penal Code, 1860 & section 134 Punishable U/sec. 177 of the Motor Vehicles Act.	Acquitted.	Nil.	Nil.

:: J U D G M E N T ::

(Delivered on this day 25th October 2024)

The accused stands charged for commission of the offence punishable U/sec. 279, 337, 338, 427 of the Indian Penal Code, 1860 & section 134 Punishable U/sec. 177 of the Motor Vehicles Act.

The case of the prosecution in nutshell would run as follows...

02. Informant namely Sanjay Rakhonde contended that, on 24/05/2022 he and his wife Vandana Rakhonde were riding from their motorcycle bearing no. MH 28 BE 9439. They were accompanied by Gopal Charakhe and Latabai Umalkar on their motorcycle. They were proceeding towards Sonala. The informant further contended that, when they reached at “Y” point near Jalgaon Jamod-Sangrampur road and in front of house of Anil Rathi at about 04.15 pm, one four wheeler from behind gave a dash to their motorcycle. Due to the accident, the informant and his wife were thrown on the road. The informant and his wife suffered vital injuries due to the accident. Even after the accident, the driver of the vehicle did not take any pains to stop the vehicle and fled from the spot. The accident had happened due to the rash and negligent driving of the accused.

03. The informant lodged the FIR with Jalgaon Jamod Police station and crime was registered as C.R. No 342/2022 for the offence punishable U/sec. 279, 337, 338, 427 of the Indian Penal Code, 1860 & section 134 Punishable U/sec. 177 of the Motor Vehicles Act. Investigation was carried out by concerned police station. During

investigation investigating officer has carried out spot panchanama and recorded the statement of witnesses. After completion of investigation he has forwarded the charge sheet i.e. final report under section 173 of Code of Criminal Procedure.

04. I have taken cognizance against accused and issued process against him as per 204 of Cr.P.C. In response to summons the accused appeared before court and secured his presence by furnishing bail & bonds as per order. The particular of the offence punishable U/sec. 279, 337, 338, 427 of the Indian Penal Code, 1860 & section 134 Punishable U/sec. 177 of the Motor Vehicles Act were recorded at Exh. 12 & were explained to the accused, to which he had pleaded not guilty and desired to make defense in the case. The defense of accused is of total denial and false implication in the crime.

05. To bring home the guilt of the accused person, the prosecution has examined the following witnesses.

Part "C"			
LIST OF PROSECUTION/ DEFENCE / COURT WITNESSES.			
A. PROSECUTION			
Rank	Name	Nature of Evidence	Exh. No.
PW NO. 1	Sanjay Rameshwar Rakhonde	Informant	18
PW NO. 2	Vandana Sanjay Rakhonde	Injured	23
PW NO. 3	Gopal Prahlad Charakhe	Eye Witness	25

PW NO. 4	Laltabai Narayan Umkarar	Eye Witness	26
-------------	--------------------------	-------------	----

B. DEFENCE			
Rank	Name	Nature of Evidence	Exh. No.
:: N I L ::			

C. Court Witness if any.			
Rank	Name	Nature of Evidence	Exh. No.
:: N I L ::			

Part "C"			
LIST OF PROSECUTION/ DEFENCE / COURT EXHIBITS			
A. PROSECUTION			
Sr. no.	Exhibit Number	Description	
01.	19	Report of Incident	
02.	20	First information Report	
03.	31	Spot Panchnama	

Part “C”		
LIST OF PROSECUTION/ DEFENCE / COURT EXHIBITS		
B. Defence		
Sr. no.	Exhibit Number	Description
:: N I L ::		

Part "C"		
LIST OF PROSECUTION/ DEFENCE / COURT EXHIBITS		
C. Court Exhibits if any.		
Sr. no.	Exhibit Number	Description
:: N I L ::		

07. The prosecution had issued further witness summons to the other witnesses but none of the witnesses have been appeared before the court. Hence, the prosecution evidence was closed. After the completion of the prosecution evidence, the statement of the accused as per section 313 of the Code of Criminal Procedure was recorded. The accused had denied all the allegations and contended he was falsely implicated in the present crime as he was not driving the said vehicle in rash and negligent manner.

08. Heard Both the counsels appearing for the parties.

SUBMISSIONS ON BEHALF OF THE PROSECUTION:- The Ld. A.P.P. has submitted that, the prosecution has examined the prime witnesses by which the offence laid against the accused had been proved beyond reasonable doubt. The accused was driving his vehicle with rash and negligent way by which he gave a dash to the motorcycle of the informant. The fact that, the accused had not attended the victims with medical facility has been also established. The fact that, the accidental vehicle

was driven by the accused has also been established. Hence, the Ld. APP has prayed to convict the accused.

SUBMISSIONS ON BEHALF OF THE ACCUSED:- The Ld. Counsel for the accused submitted that, none of the witnesses of the prosecution has supported the story of the prosecution. The fact that, the accused was driving his vehicle with rash and negligent way had not been established. It creates a dark suspicious that, whether the accident had happened due to the rash and negligent driving of the accused. Hence he prayed to acquit the accused.

09. After going through the prosecution case and defence of accused and documents produced on record the following points arise for my consideration, to which I have recorded my findings hereinafter as follows.

Sr. No	Points for determination	Findings
01.	Whether prosecution proves beyond reasonable doubt that, on 24/05/2022 at about 04:15 pm on Y point road near Jalgaon Jamod, the accused drove vehicle bearing no. MH-46- BA- 0406 in a rash ad negligent manner to endanger human life or to be likely to cause hurt or injury to any person ?	No
02.	Whether prosecution proves beyond reasonable doubt that, on the above mentioned date, time and place accused by driving above mentioned vehicle so rashly and negligently caused hurt to	No

	Sanjay R Rathode ?	
03.	Whether prosecution proves beyond reasonable doubt that, on the above mentioned date, time and place accused by driving above mentioned vehicle so rashly and negligently caused grievous hurt to Sanjay R Rathode and his wife ?	No.
04.	Whether prosecution proves beyond reasonable doubt that, on the above mentioned date, time and place accused by driving above mentioned vehicle so rashly and negligently damaged and diminished the value and utility of the vehicle of the informant ?	No.
05.	Whether prosecution proves beyond reasonable doubt that, on the above mentioned date, time and place accused had run away from the accidental spot without giving any medical help to the injured ?	No.
06.	What offence are made Out ?	No Offence is made Out.
07.	What Order ?	As per final Order the accused is acquitted.

:: REASONS ::

AS TO POINT NO 1 TO 4 :

10. As these points are interlinked with each other, I have discussed them together for avoidance of repetition of evidence. In order to prove the charge laid against accused, the

prosecution has first examined informant Sanjay Rameshawar Rakhonde as PW no. 1 below Exh. 18 who deposed on oath that, the incident took place on 24/05/2022. On that day, he accompanied by his wife were heading towards Sonala on their motorcycle bearing no. MH 28 BE 9439. They were accompanied by Gopal Charakhe and Latabai Umarkar on their vehicle. When they reached near about Y point, Jalgaon Jamod-Samgrampur Road, the Vehicle bearing no. MH 46 BA 0464 gave sudden dash to their motorcycle. They fell down on the road in which they suffered multiple injuries. The accused did not stop but fled away from the spot. He had suffered fracture to the wrist of the right hand and multiple wounds to the left hand. His wife had suffered injuries to the hand due to which she is facing difficulties in day to day routine. He had identified the report which is marked with Exh. 19 and First information report which is marked as Exh. 20. He also identified the accused as he was driving the said vehicle

11. The witness was cross examined at length by the Ld. Counsel for the accused. In cross examination, he had admitted that, he had admitted that, the PW no. 3 works in his photo studio. His photo studio is next to the photo studio. He also admitted that, he had been called on many occasions by the police officials. He has also admitted that, on the day of incidence he was discharged from the medical facility. He did not file any report immediately.

12. The Prosecution had further examined Vadana Rakhonde as PW no. 2 below Exh. 23 who is the victim of the crime. She deposed that, on the day of incidence she was travelling with her husband on his motorcycle. When they reached at Y point Jalgaon Jamod-Samgrampur road, the accidental vehicle gave dash die to which they were thrown on the ground and her husband was wandered down on the street with the motorcycle. They have suffered multiple injuries. The passers by shifted them to the hospital. She further deposed that, on the day of incidence they were discharged from the hospital.

13. The PW no. 2 (Vandana) was cross examined by the defence counsel. She admitted in cross examination that, she went to Sonala on 24/05/2021 however, the date had been wrongly mentioned in the first information report. She had also admitted that, spot of incidence is next to old bus stand. The road had heavy traffic usually. She had also admitted that, the accident happened because her saree got stuck in the rear wheel of the motorcycle.

14. The prosecution had examined Gopal Charakhe as PW no. 3 below Exh. 25. He deposed on oath that, the incidence took place on 24/05/2022. He deposed the informant and her wife was travelling on their motorcycle from Vasadi to Jalgaon

Jamod. At the Y point the Vehicle no. MH 46 BA 0464 which was driven by the accused gave a dash to the informant. The PW no. 1 (Sanjay) and PW no. 2 (Vadana) were thrown on the ground in which they suffered multiple injuries. The wife of the informant was thrown in the air and fell to the ground. He stopped the vehicle and with the help of passer-by, shifted them to the hospital.

15. He was cross examined by the defence counsel who admitted in cross examination that, he works with PW no. 1 (Sanjay) on his photo shop. He had cardinal relations with PW no. 1. He was called by the police to record his statements. He has also admitted that, on the day of incidence the said road was crowded. The defence counsel has brought on record the certain improvements on record. All other suggestions were denied by the PW no. 3.

16. The prosecution had examined Latabai Umarkar as PW no. 4 below Exh. 26. She deposed on oath that, the incidence took place on 24/05/2022. She deposed the informant and her wife was travelling on their motorcycle from Vasadi to Jalgaon Jamod. At the Y point the Vehicle no. MH 46 BA 0464 which was driven by the accused gave a dash to the informant. The PW no. 1 (Sanjay) and PW no. 2 (Vadana) were thrown on the ground in which they suffered multiple injuries. The wife of the informant was thrown in the air and fell to the ground in

which they suffered injuries. She was cross examined by the defence counsel in which she deposed that, the police has recorded her statement. The police had never read out the statement to her. She also deposed that, she is not able to sit on the motorcycle. All other suggestions were denied by the witness.

17. Thereafter, ample opportunities were given to the prosecution side but the prosecution has failed to lead the further evidence, hence the prosecution evidence was closed.

18. Now at this juncture, it is necessary to evaluate the testimonies of witnesses and appreciate the evidence on record to see whether the essential ingredients of the charges are attracted or not. To Establish the charge under section 279 of I.P.C., the prosecution first needs to prove the following ingredients. 1) Driving of a vehicle on public road. 2) Such driving or riding must be so rash and negligent so as to endanger human life or to be likely to cause hurt or injury to any other person.

19. The defence counsel had admitted the spot panchanama which is marked with Exh. 31. It reveals that, the accident took place at Jalgaon Jamod- Sangrampur road Y point in front of Anil Rathis's house. It event of happening of accident is not in dispute. The road is a tar road. And it also had break

marks on it. Hence, it can be said that, the said is used by the public. However, now it is necessary to see whether the accused was driving the said vehicle in rash and negligent manner.

20. In this regard, the prosecution has laid the evidence of informant himself as Pw No. 1 (Sanjay), the PW 3 (Gopal) and PW no. 4 (Latabai) are the eye witness. After close scrutinizing, the testimonies of these witnesses, it appears that, none of the witness has specifically stated that, at the relevant point of time of accident, the accused was driving his vehicle in rash and negligent manner. All the witnesses claim that, the accused was driving the vehicle. However, to inculcate the accused person under the offence, the act of accused must be rash and negligent. It is also pertinent to note here that, all the witnesses PW 1 to PW 4 has admitted in cross examination that, usually there is reasonable traffic on the road. The prosecution has argued that, the witness has stated the exact number of the vehicle, which leads to suggest an inference that, the accused was driving the said vehicle in rash and negligent manner. However it had also come on record that, on some distance, the vehicle was seen to be in damaged condition and tyre was burst out.

21. The PW no. 4 (Latabai) had deposed in her statement that, the police had not taken her statement. There is also material discrepancy in respect of the date of happening of

the incident. The PW no. 1 (Sanjay) and PW no. 2 (Vadnaa) had admitted in cross examination that, on the day of incidence they were released from the hospital. The FIR came to be filed on 02/06/2022 and the incident took place on 24/05/2022. There is delay of almost 05 days in filing up the FIR. The PW no. 1 (Sanjay) and PW no. 2 (Vandana) had deposed that, after they have been shifted for the medical facility, after treatment they have been discharged on the same date. The delay which had been occurred in lodging up the FIR had not been properly explained by the PW no. 1(Sanjay) as to why he had not approached the concerned police station within reasonable time to lodge the FIR.

22. None of the witness has specifically uttered to draw an inference that, at the relevant point of time of accident, the accused was driving the said vehicle in rash and negligent manner so as to endanger human life and personal safety of others. Moreover, it is also doubtful that, whether the accused was really driving the said vehicle at the relevant point of time. Therefore, it appears that, none of witness has seen the accused at relevant point of time of accident. More over, none of witnesses has specifically sated that, the accused was driving his vehicle in rash and negligent manner. Hence, in my opinion the essential ingredients of section 279 and 338 of I.P.C. are not attracted.

23. The prosecution has failed to establish beyond all reasonable doubt that, the accused was driving the vehicle, the said vehicle was driven in rash and negligent manner. His act was so rash and negligent so as to endanger the human life or to be likely to cause hurt or injury to any other person.

24. In totality the evidence of P.W. No.1 to P.W. No.4 is shrouded with grave suspicion and serious doubts. Prosecution have examined only interested witnesses and not examined any independent witness. The prosecution has failed to establish the injuries sustained by the victim are cumulative result of the accident. Prosecution have failed to prove that accused was driving the said vehicle in rash and negligent manner. The evidence on record is creating clouds of suspicion around the story brought by the prosecution and the prosecution have failed to dispel the same. The story of prosecution is doubtful and the benefit of doubt goes in favour of the accused person. Owing to which, I am of the view that prosecution have failed to saddle accused with the criminal liability beyond all reasonable doubts. Consequently, I answer points No.1 to 4 in Negative.

AS TO POINT NO. 5:

25. The charge under section 134 punishable under section 177 of M.V. Act is also leveled against the accused. The section 130 of the M.V. Act casts a duty on the person, to provide medical aid to the injured persons in an accident. The

prosecution has not brought anything on record from the evidence to show that, at the time of accident the accused was driving the said vehicle, he was present at the time of accident and he was driving the said vehicle and inspite of this the accused has ran away from the spot instead of giving medical aid and assistance. Hence, in my opinion, the prosecution has failed to prove that, the accused had fled away from the spot Accordingly I answer point no. 5 in negative.

AS TO POINT NO. 6 :

26. The prosecution has not lead any cogent evidence to bring accused within the ambit of offence punishable under section 279, 337, 338, 427 of IPC 1860 and section 134 punishable under section 177 of M.V. Act. The prosecution has failed to bring the accused person within the ambit of ingredients of sections levelled against him. Hence, as the essential ingredients of the offence are not satisfied, no offence is made out against accused. Hence, I answer the point no. 6 accordingly.

AS TO POINT NO. 7 :

27. In view of my findings to point no 1 to 4 the prosecution has failed to prove charge against accused beyond all reasonable doubt, hence in answer to point no. 5, I proceed to pass following order;

:: ORDER ::

- 1] Accused namely **Chetan Arjun More**, is found not guilty for the offence punishable under section 279, 337, 338, 427 of the Indian Penal Code, 1860 and Section 134 punishable under section 177 of The Motor Vehicles Act, 1988 and are hereby acquitted vide section 255(1) of Code Of Criminal Procedure, 1973.
- 2] PR bond of the accused is cancelled and surety stands discharged.
- 3] The vehicle bearing no. MH 46 BA 0464 has been already released on indemnity bond to the accused. The custody of the same is hereby confirmed. The indemnity bond stands cancelled after the appeal period is over.
- 4] The accused is directed to furnish PR bond of ₹ 7,500/- and surety bond in like amount under Section 437(A) of Code of Criminal Procedure, 1973, to appear before the higher court as and when such court issues notice in respect of any appeal or petition against the present judgment. The said bail bond shall be in force for six months.

(Dictated and pronounced in open Court.)

Date : 25/10/2024.	(Chandramohan M. Kharkar)
Placce : Jalgaon Jamod	Judicial Magistrate F.C.(Court No-2)
	Jalgaon Jamod. (MHBU09-3003)