

**IN THE COURT OF AJAY GARG
SPECIAL JUDGE-NDPS/ASJ (SOUTH),
SAKET COURTS, NEW DELHI**

**Crl. Appeal No. 03/25
CNR NO. DLST01-000094-2025**

MUNISH KUMAR

S/O Sh. Ram Swaroop

R/o A-569, Transit Camp,

Govindpuri, New Delhi – 110019.

.....Appellant

Versus

STATE

(GOVT. NCT OF DELHI)

.....Respondent

Date of institution : 09.01.2025

Date of Arguments : 01.04.2026

Date of judgment : 01.04.2026

JUDGMENT

1.0 Vide this judgement, I shall dispose off the present appeal filed against the impugned judgement dated 19.10.2023 and order on sentence dated 07.12.2024 passed by the Ld. JMFC (South), Saket Courts, New Delhi convicting the appellant u/s 279/337/338/304A IPC and sentenced him to (1) undergo simple imprisonment for a period of 04 months and also to pay fine of Rs. 1,000/- u/s 279 IPC in default of payment of fine, to undergo simple imprisonment for 01 month, (2) to undergo simple imprisonment for 01 month and to pay fine of Rs. 5,000/- u/S 337 IPC in default to undergo simple imprisonment for 01 month, (3) to underso simple imprisonment for 01 month and to pay fine of Rs.. 5,000/- u/s 338 IPC in

default to undergo simple imprisonment for 01 month and (4) to undergo simple imprisonment for 18 months and to pay fine of Rs. 5000/- u/s 304A IPC and in default to undergo simple imprisonment for 03 months.

2.0 Briefly stated the case of the prosecution is that on 27.08.2014 at about 3:15pm, one Grameen seva No. DL2W 2846 GS78 was coming from Govindpuri side with passengers in a very high speed and when it took a turn at T point Red light, it overturned due to high speed. Ct. Nalvesh Singh posted at the red light alongwith Ct. Lalit turned the vehicle and took out the passengers and thereafter called No. 100. Injureds were removed to hospital. The driver ran away from the spot. One Mohd. Naim was declared brought dead at AIIMS Trauma Center. IO recorded the statement of the other injured persons namely Neha Kumar, Nisha, Smt. Mangali and on the statement of Ct. Nalvesh FIR was registered and the matter was investigated.

2.1 During the course of investigation, it was revealed that at the time of the incident, appellant was driving the offending vehicle, in a rash and negligent manner and due to the same, it overturned when it took a turn at red light. After conclusion of investigation, chargesheet was filed before the Ld. MM and the appellant was summoned. Notice u/s 251 Cr.PC was served upon the appellant for the offences punishable u/s 279/337/338/304A IPC to which he pleaded not guilty and claimed trial.

3.0 The prosecution examined 07 witnesses to prove its case.

PW1	Ms. Neha Kumari	Eye witness / Injured
PW2	Ct. Nalvish Singh	Eye witness

PW3	Smt Mangli Devi	Eye witness / injured
PW4	Sh Sanjay Saxena	Owner of the vehicle.
PW5	Sh. Azeem	Identified dead body of deceased
PW6	Sh. Sushil Yadav	Previous owner of the vehicle.
PW7	Retd. SI Singh	IO of the case

4.0 Thereafter, statement u/s 313 Cr.PC was recorded and all the incriminating circumstances appearing in evidence were put to the appellant. The appellant denied that he was driving the offending vehicle. The appellant denied all the other allegations and claimed false implication. He however, did not lead any evidence in support of his defence.

5.0 The Ld. Trial Court after hearing final arguments, finally convicted the appellant vide its impugned judgment. Aggrieved by the same, the appellant has approached this Court with the present appeal.

6.0 Arguments heard. Record perused.

7.0 The prosecution in the instant case was required to prove that it was the appellant who was driving the offending vehicle at the time of the incident and that the vehicle was being driven by him in a rash and negligent manner. It was further required to be proved that the appellant while driving the vehicle in the aforesaid manner had overturned while taking a turn at the red light causing the death of deceased Mohd. Naim and causing injuries to Neha Kumar, Nisha, Smt. Mangali.

7.1 In *Rathnashalvan Vs. State of Karnataka, (2007) 3 SCC 474*, the Apex Court observed that:

“5. Section 304A applies to cases where there is no intention to cause death and no knowledge that the act done in all probability will cause death. The provision is direction at offences outside the range of [Sections 299](#) and [300](#) IPC. The provision applies only to such acts

which are rash and negligent and are directly cause of death of another person. Negligence and rashness are essential elements under Section 304-A. Culpable negligence lies in the failure to exercise reasonable and proper care and the extent of its reasonableness will always depend upon the circumstances of each case. Rashness means doing an act with the consciousness of a risk that evil consequences will follow but with the hope that it will not. Negligence is a breach of duty imposed by law. In criminal cases, the amount and degree of negligence are determining factors. A question whether the accused's conduct amounted to culpable rashness or negligence depends directly on the question as to what is the amount of care and circumspection which a prudent and reasonable man would consider it to be sufficient considering all the circumstances of the case. Criminal rashness means hazarding a dangerous or wanton act with the knowledge that it is dangerous or wanton and the further knowledge that it may cause injury but done without any intention to cause injury or knowledge that it would probably be caused.

6. As noted above, "Reshness" consists in hazarding a dangerous or wanton act with the knowledge that it is so, and that it may cause injury. The criminality lies in such a case in running the risk of doing such an act with recklessness or indifference as to the consequences. Criminal negligence on the other hand, is the gross and culpable neglect or failure to exercise that reasonable and proper care and precaution to guard against injury either to the public generally or to an individual in particular, which having regard to all the circumstances out of which the charge has arisen it was the imperative duty of the accused person to have adopted."

8.0 Perusal of the Ld. Trial Court's Record would reveal that the appellant did not dispute that the vehicle was involved in the said road traffic accident. At the time of recording his statement u/s 313 Cr.PC, he had admitted the said fact and did not deny that he was not present at the spot. He also admitted that due to injuries caused in the accident, one person had expired and Ms. Neha and Nisha had suffered injuries. The fact that Neha Kumari, Nisha and Mangli Devi sustained grievous injuries stands proved from MLC Ex.AD5. As per the medical

documents, Neha Kumari and Nisha had sustained grievous injuries. Nothing to the contrary could be shown on behalf of the appellant.

8.1 In *Ashok Debbarma @ Achak Debbarma Vs. State of Tripura*, (2014) 4 SCC 747, the Apex Court observed that:

“21. We are of the view that, under Section 313 statement, if the accused admits that, from the evidence of various witnesses, four persons sustained severe bullet injuries by the firing by the accused and his associates, that admission of guilt in Section 313 statement cannot be brushed aside. This Court in [State of Maharashtra v. Sukhdev Singh and another](#) (1992) 3 SCC 700 held that since no oath is administered to the accused, the statement made by the accused under Section 313 CrPC will not be evidence stricto sensu and the accused, of course, shall not render himself liable to punishment merely on the basis of answers given while he was being examined under Section 313 CrPC. But, Sub-section (4) says that the answers given by the accused in response to his examination under Section 313 CrPC can be taken into consideration in such an inquiry or trial. This Court in [Hate Singh Bhagat Singh](#) (supra) held that the answers given by the accused under Section 313 examination can be used for proving his guilt as much as the evidence given by the prosecution witness. In [Narain Singh v. State of Punjab](#) (1963) 3 SCR 678, this Court held that when the accused confesses to the commission of the offence with which he is charged, the Court may rely upon the confession and proceed to convict him.

22. This Court in [Mohan Singh v. Prem Singh and another](#) (2002) 10 SCC 236 held that the statement made in defence by accused under [Section 313](#) CrPC can certainly be taken aid of to lend credence to the evidence led by the prosecution, but only a part of such statement under [Section 313](#) CrPC cannot be made the sole basis of his conviction. In this connection, reference may also be made to the judgment of this Court in [Devender Kumar Singla v. Baldev Krishan Singla](#) (2004) 9 SCC 15 and [Bishnu Prasad Sinha and another v. State of Assam](#) (2007) 11 SCC 467. The above-mentioned decisions would indicate that the statement of the accused under [Section 313](#) CrPC for the admission of his guilt or confession as such cannot be made the sole basis for finding the accused guilty, the reason being he is not making the statement on oath, but all the same the confession or admission of guilt can be taken as a piece of evidence since the same lends credence to the

evidence led by the prosecution.”

9.0 The only limited defence of the appellant is that he was not driving the offending vehicle in a rash or negligent manner. It was argued by Ld. Counsel for the appellant that the Ld. Trial Court, committed an error by not appreciating the fact that the other occupants of the vehicle were not examined. It is also argued that the appellant was travelling in the said vehicle as a passenger.

10.0 Perusal of testimony of PW1 injured Neha Kumari would show that she had deposed that on 27.08.2014, she was travelling in the Gramin Sewa with her friend and that the driver was driving the said vehicle at a very high speed and in a negligent manner. When the vehicle reached at T point red light, the driver turned the vehicle but due to high speed, the driver lost control and the vehicle toppled causing injuries to the passengers including herself and her friend Nisha. She further deposed that the traffic police deputed at the spot, called the PCR and helped them. She identified the appellant as the driver who was driving the gramian sewa on the said date. PW3 Smt. Mangli Devi also deposed on the same lines and identified the appellant as the driver on the said day. PW2 Ct. Nalvish also deposed that he saw the vehicle coming from Govindpuri side in a very high speed and saw it topple due to high speed when it tried to take a turn. He rushed to the spot and helped the victims. He further deposed that he saw the appellant / driver run away from the spot. The fact that the appellant was driving the vehicle in a rash and negligent manner is apparent from the testimony of PW1, PW2 and PW3. Rashness and negligence on the part of the appellant is implicit

from the fact that his vehicle toppled on taking a turn at the red light.

11.0 The Ld. Trial Court was right in holding that the appellant was infact driving the offending vehicle in a rash and negligent manner and had caused the road traffic accident. The Ld. Trial Court rightly observed that the defence was not able to point out any infirmity in the testimony of PW1 Neha Kumari PW2 Ct. Nalvish Singh and PW3 Mangli Devi and that there is nothing on record to discredit their version. Even PW4 Sanjay Saxena the owner of the gramin sewa stated that he had given the said vehicle to the appellant who was driving the said vehicle on the day of the incident. Further, the Ld. Trial Court rightly came to the conclusion that the appellant herein is guilty for the offences punishable u/s 279, 337, 338, 304A IPC. **The decision of the Ld. Trial Court in this regard cannot be faulted with and is accordingly upheld.**

12.0 Now coming to the order on sentence, it is noted that the Ld. Trial Court has already taken a lenient and benevolent view while imposing the sentence upon the appellant. The Ld. Trial Court took into notice the age of the appellant and that there was every likelihodd of him becoming a law abiding citizen and thereafter, passed a lenient order on sentence. I find no reason to interfere with the order on sentence passed by the Ld. Trial Court on 07.12.2024. Accordingly, the order on sentence passed by the Ld. Trial Court is upheld. All the sentences shall run concurrently. Benefit of Sec. 428 Cr.PC be given to the appellant.

13.0 Ld. Trial Court's Record would also reveal that in compliance of decision in *Karan Vs. State (NCT of Delhi), Crl. K. 352/20 decided on 27.11.2020*, Ld. Trial Court had called for

the Victim Impact Report from DLSA. The Ld. Trial Court thereafter, considering the rest of the documents including the affidavit of the convict had referred the matter to DLSA for awarding appropriate compensation under the Delhi Victim Compensation Scheme. The Ld. Trial Court was justified in adopting such an approach.

14.0 The present appeal is therefore, dismissed.

Copy of the judgement be sent to the Trial Court with the Trial Court Record.

15.0 Appeal file be consigned to Record Room.

**Announced & dictated in
open Court on 01.04.2026**

(Ajay Garg)
Special Judge-NDPS/ASJ (South)
Saket Courts, New Delhi