

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

**Crl. Appeal No. 200/25
CNR NO. DLST01-007728-2025**

NARESH KUMAR

S/O Sh. Brahmanand

R/o Village Muzaffarpur Kambala,
District Bhagpat, Uttar Pradesh.

.....Appellant

Versus

STATE

.....Respondent

Date of institution	:	02.06.2025
Date of Arguments	:	27.03.2026
Date of judgment	:	20.04.2026

JUDGMENT

1.0 Vide this judgement, I shall dispose off the present appeal filed against the impugned judgement dated 26.06.2024 and order on sentence dated 06.05.2025 passed by the Ld. ACJM (South), Saket Courts, New Delhi convicting the appellant u/s 279, 337, 304A IPC and sentenced him to (1) undergo simple imprisonment for a period of one year and also to pay fine of Rs. 30,000/- u/s 304A IPC, in default of payment of fine, to undergo simple imprisonment for one month, (2) to undergo simple imprisonment for three months and to pay fine of Rs. 10,000/- u/S 337 IPC, in default to undergo simple imprisonment for 15 days. No separate sentence u/s279 IPC was awarded as the the offence punishable u/s 337/304A are similar offences in aggravated forms and includes the minor offence punishable u/s 279 IPC.

2.0 Briefly stated the case of the prosecution is that on 14.09.2016 at about 07:30 am, at MB Road, in front of DC Office, Saket, New Delhi, the accused was found driving a bus bearing registration No. DL-1PC-6344 in a rash and negligent manner so as to endanger human life and personal safety of others and while so driving, he hit an old person, namely, Bhagwan Paswan and two children, namely, Rishika Kumari and Shailesh Paswan and caused injury to them and due to that injury, both children died on the same day and the old person sustained simple injury. 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 bus, in a rash and negligent manner and had hit Bhagwan Paswan, Rishika Kumari and Shailesh Paswan while they were crossing the road causing fatal injuries to deceased Rishika Kumari and Shailesh Paswan and grievous injuries to Bhagwan Paswan. After conclusion of investigation, chargesheet was filed before the Ld. ACJM and the appellant was summoned. Notice u/s 251 Cr.PC was served upon the appellant for the offences punishable u/s 279/337/304A IPC to which he pleaded not guilty and claimed trial.

3.0 The prosecution examined 05 witnesses to prove its case.

PW1	Sh. Arvind Chauhan	Took the injured to hospital
PW2	Sh. Pankaj Paswan	Son of the injured and uncle of deceased
PW3	Sh. Bhagwan Paswan	Injured
PW4	HC Ashok Kumar	Witness to seizure of offending bus
PW5	SI Rajdeep	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 admitted that he was driving the said offending bus at the time of the incident, however, he claimed that he was not driving the said vehicle in a rash or negligent manner. He also claimed that the victims crossed the road abruptly and that he was driving the bus at a very slow speed. He admitted that the bus collided with some of the victims and he did not know the number of the victims and their name. 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 and sentenced the appellant vide its impugned judgment and order on sentence. 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 hit against three persons causing death of deceased Rishika Kumari and Shailesh Paswan and causing injuries upon the person of injured Bhagwan Paswan.

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 302-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, "Rashness" 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 he was driving the said offending bus on the date and time of incident. He also did not dispute that his vehicle was involved in the said road traffic accident. At the time of recording of his statement u/s 313 Cr.PC, he had admitted the said fact. He also did not dispute that deceased Rishika Kumari and Shailesh Paswan had succumbed to injuries sustained by them in the road traffic accident and he

admitted the MLCs of the injured / deceased persons as Ex.A1 to Ex.A3 and the postmortem report of deceased Rishika as Ex.A4. The fact that Rishika Kumari and Shailesh Paswan sustained fatal injuries stands proved from their respective postmortem reports. 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 cross examination of PW3 Bhagwan Paswan. It was argued that PW3 deposed that on the road where the accident took place, there were typists but infact the siteplan shows that the place of incident is after the SDM Court. It is submitted that the testimony of PW3 is full of contradictions and surmises.

10.0 Perusal of testimony of PW3 injured Bhagwan Paswan would show that he had deposed that on the fateful day, he was taking his grandchildren Rishika Kumari and Shailesh Paswan to school situated at G Block, Saket and as they reached in front of SDM office, on MB Road, at that time the offending bus came at high speed, in negligent manner and hit them. He further deposed that the appellant fled away from the spot after the incident. A perusal of siteplan would also corroborate the version of PW3 where the place of accident has been shown in the place as deposed by PW3. Further, Mechanical Inspector's report Ex.A5 would show the following damages on the offending bus:

- 1) front bumper dented / pressed.
- 2) Front grill dented / pressed.
- 3) Left side front lower corner panel dented / pressed.
- 4) Left side front tyre CEAT & right side front type CEAT Nylon.
- 5) Dried blood marks inside front left side tyre down arch facing

type CEAT nylon.

6) Left side rear outer tyre Apollo and Right side rear outer tyre JK Nylon.

7) Brakes Ok

8) Vehicle on road.

The fact that the appellant could not stop his vehicle after hitting the victims and the nature of injuries sustained by the victims, proves his rashness and negligence in driving the vehicle. Rashness and negligence on the part of the appellant is implicit from the fact that one of the victim was stuck in the rear tyre of the bus with head crushed.

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 PW3 Bhagwan Paswan and that there is nothing on record to discredit his version. Further, the Ld. Trial Court rightly came to the conclusion that the appellant herein is guilty for the offences punishable u/s 279, 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 very lenient and benevolent view while imposing the sentence upon the appellant. In view of the same, **order on sentence is upheld.**

Accordingly, order on sentence dated 06.05.2024 wherein the appellant was sentenced to undergo simple

imprisonment for a period of 01 year and to pay compensation of Rs. 30,000/-, in default to undergo simple imprisonment for a period of one month u/s 304A IPC and also to undergo simple imprisonment for a period of 03 months and to pay compensation of Rs. 10,000/-, in default to undergo simple imprisonment for a period of 15 days is not interfered with. 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 the amount of compensation was decided on the fact that suitable compensation was already awarded to the LRs of the deceased by the Ld. MACT. Out of the compensation of Rs. 30,000, the Ld. Trial Court has rightly directed that Rs. 25,000/- be paid to the LRS of the deceased and Rs. 5,000/- be deposited towards the expenditure incurred by the State in prosecution. The Ld, Trial Court also rightly and justifiably directed that the compensation amount of Rs. 10,000/- sentenced u/s 337 IPC be awarded to injured PW3 Bhagwan Paswan. The Ld. Trial Court was justified in adopting such an approach.

14.0 The 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 20.04.2026**

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