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	Duration :	00Y-02M-23D

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, AHWA

CRIMINAL CASE NO:-1279/2025

EXHIBIT: 09

STATE OF GUJARAT

...Prosecution

VS

Sampatbhai Ramubhai Kamadi

Age: 45 Residing at Gondalvahir village

Taluka : Ahwa District: Dang

.. Accused

OFFENCE : Section 281 of The Bhartiya Nyaya Sanhita of 2023

LD ADVOCATE FOR STATE : Learned APP Shri S.H. Kokni

LD ADVOCATE FOR ACCUSED : Learned Advocate Shri. R.P Lakhan

JUGDEMENT

- 1. Short Facts:** It is the case of the prosecution that on 17/11/2025, the accused was observed driving a motorcycle bearing registration number GJ-30-B-5622 in rashly and negligently thereby endangering the human lives on a public road near Saputara Police check post For these alleged violations, the Complainant filed a formal complaint with the Saputara Police Station, which was registered in the Crime

Register. Upon completion of investigation, a charge sheet was filed against the accused under Section 281 of Bhartiya Nyaya Sanhita of 2023

2. Upon service of process, the accused appeared before this Court through his Ld. advocate. In compliance with Section 230 of the Bhartiya Nagrik Suraksha Sanhita 2023. The accused was furnished with copies of the police report and other relevant documents. The plea of the accused was recorded vide Exh.3 in which he pleaded not guilty and the court proceeded with the trial against the accused.

3. Evidence produced by the Prosecution:-

Oral Evidence:-

Exhibit	Name	Detail
Ex-05	Pareshbhai Tuljibhai	Complainant
EX-07	Sumitbhai Saijubhai Pawar	Panch Witness

Documentary Evidence:-

EXHIBIT	Details
EX- 06	Complaint
Ex- 08	Panchanama

4. Subsequently, the court has examined the witnesses in the present case. The complainant's side has not presented any additional evidence. Upon examining the case record, the opportunity was given to the accused for the recording of the statement under Section 351 of the Bhartiya Nagrik Suraksha Sanhita, 2023.

5. Issues

1)Whether the prosecution proves that on 17/11/2025 the accused was observed driving a motorcycle bearing registration number GJ-30-B-5622 in rashly and negligently and thereby endangering the human lives on a public road near Saputara Police check post and thus committed an offence under Section 281 of BNS?

2)What Judgment?

6. Decisions

My decision upon the above framed issues is given below:

1- In Negative

2- As per Final Order.

REASONS

7. Issue No.1

This Court heard arguments from both, prosecution and defence sides. The prosecution has alleged commission of offence under Section mentioned hereinbefore against the accused. To prove these charges, the prosecution must establish elements such as, the accused was driving the motorcycle at the time of the incident, and the accused was driving in excessive speed, and in a negligent and reckless manner. Upon review of the entire prosecution evidence, the court finds that these elements are not proven.

8. Upon reviewing the testimony of the panch witnesses, it appears to the court that the panch witnesses have not supported the case of the prosecution. Therefore the Ld. The Assistant Public Prosecutor sought the permission of the court to declare the witness hostile. The court granted the permission to the Assistant Public Prosecutor to ask the question to the witnesses that can be asked during the cross-examination. However, the panch witnesses have not supported the case of the prosecution and no supporting evidence appeared during the deposition of the said panch witnesses.
9. For conviction in motor accident cases, the prosecution must prove that the accused was driving at excessive speed, negligently and recklessly at the time of the incident. A mere error of judgment is not sufficient for conviction. Criminal negligence or recklessness must be demonstrated with evidence. In the case of 'Badiprasad Tiwari v. State' (1994 Cr.L.J. Page No. 389), has provided guidance on this matter. The court held that:

A) Penal Code (45 of 1860), S.279 NEGLIGENCE- Rash and negligent driving - Offence under - Ingredients of rash and negligent driving on public road endangering human life or likely to cause injury, must be established Mere carelessness or error of judgment, not sufficient - Accident resulting in death, failure of prosecution to prove rash and negligent driving of accused Bare statement that vehicle was being driven in high speed, not sufficient Accused entitled for acquittal. Additionally in para 5 "Section 279, IPC deals with rash and negligent driving of any vehicle or riding on a public way in a rash and negligent manner so as to endanger human life or likely to cause hurt or injury to any person. In order to constitute an offence under Section 279, IPC, it must be established that the accused was driving the vehicle on a public way in a rash and negligent manner to endanger human life or likely to cause hurt or injury to any other person. For the purpose of Section 279 rash and negligence may be described as criminal rashness or criminal negligence. It must be more than mere carelessness of error of judgment.

10. The burden of proving the negligence of the driver lies on the prosecution. The burden has to be discharged fully and aptly. However the same has not been carried out by the prosecution in the instant case. In the judgment of the **State of Gujarat Vs. Chandubhai (1984) 1 Crimes 808 (Gujarat)**, it was observed by the Hon'ble High court of Gujarat, that "The complaint of negligent driving can not culminate in conviction if the prosecution fails to prove the accused was the negligent driver". Similarly in the present case also the prosecution has failed to establish the identity of the accused beyond reasonable doubt. Therefore benefit of the same would reasonably go to the defence
11. In order to attract Section 281 of BNS, it is important that the manner of driving is so rash or negligent as to endanger human life. The act of driving must be such that it can be branded grossly rash and/or negligent to such an extent that a reasonable inference could be drawn about the likely conviction of endangering human life or causing hurt or injury to another person. Apart from the ingredient of Section 281 of BNS to bring home the offence under Section 281 of BNS, first of all identity of the author of rash and negligent act must be fixed by proper evidence. On such identity being fixed to prove an offence under Section 281 of BNS the prosecution must establish that (a) the accused was driving a vehicle or was riding on public way, and (b) such driving of a vehicle or riding was in manner so rash and negligent as to endanger human life or to be likely to cause hurt or injury to any other person. In the instant case, the prosecution has neither established the identity nor established the rash or negligent act.
12. From the deposition of the witnesses it is clear that the incident occurred in a public place.. The complainant did not mention the names and addresses of the panch witnesses in the original complaint. No statements of independent witnesses, other than police and panchwitnesses were recorded. Independent panchwitnesses examined by the prosecution did not corroborate the authenticity of the panchnama. Panchwitnesses admitted to signing a panchnama. Despite thorough cross-examination by the Public Prosecutor, no facts emerged that substantially support the prosecution's case. Despite the spot of offence being a public place and there being a possibility of constant movement of people and vehicles at the site, no statements from independent witnesses were taken. The complainant did not specify the speed of the said motorcycle in the complaint. The prosecution failed to prove beyond reasonable doubt that the accused was in possession of and driving the said motorcycle at the time of the incident. It also failed to prove that the accused was driving at excessive speed and thereby recklessly endangering human lives. Hence, in the interest of justice this Court decides issue no.1 in Negative and issue no.2 as per Final Order.

:-Order:-

1. The accused namely, Sampatbhai Ramubhai Kamadi Age: 45 Residing at Gondalvihir village Taluka : Ahwa District: Dang

2. and charged with offence under Section 281 of BNS and, is hereby acquitted from the aforesaid charges .
3. The accused shall furnish a bail bond of Rs.15,000/- and solvent sureties of like amount, valid for a period of six months.

The order is read and pronounced today in open court.

Date: 23/03/2026
Place – Ahwa

Judicial Magistrate First Class,
Ahwa, Navsari
JO Code GJ01729