

GJSR100000612026



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Duration	00 - 01 - 12

**IN THE COURT OF PRINCIPAL CIVIL JUDGE & J.M.F.C.,
AT. UMARPADA, DIST.SURAT**

CRIMINAL CASE NO.56.2026

FIR NO.	11214002250466/2025
POLICE STATION	UMARPADA POLICE STATION
OFFENCE	UNDER SECTION 281 OF BNS.

Complainant	State of Gujarat
Versus	
Accused	Niteshbhai Aamsiyabhai Vasava Age: 20 Years, Occupation: Labour Work, Res. Add.: Devsanki Village, Nishal Faliyu, Taluka: Sagabara, District: Narmada.

Appearances:

Ld. Adv. Mr.N.S.Vasava for the accused.

Ld. APP Mr. S.J.Vasava on behalf of the State.

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

1. The accused in the above crime is facing trial for the offence punishable u/S.281 of The Bharatiya Nyaya Sanhita, 2023 (here-in-after referred as "BNS, 2023"). The Investigating Officer (I.O) of the Umarpada Police Station has submitted his final report in CR. Part-I 0466/2025 against the present accused.
2. The case of the prosecution is that, on 21st November, 2025, at 4 pm, the accused who was driving Yamaha company's two-wheeler motorcycle bearing registration no.GJ-22-S-5089 and on that particular day i.e 21-11-2025, he was driving the vehicle rashly and in negligent manner in public way from Vanraj High School to Umarpada Bazar and thereby the accused committed the offence u/S.281 of BNS, 2023.
3. The final report was filed by the Investigating Officer before this Court and the case was registered as Criminal Case No.56/2026. The summons was issued to the accused. The accused appeared with his Ld. Advocate before this Court. After the appearance of the accused, this Court has served the copies of the prosecution records u/Sec. 230 of BNSS, 2023. Particulars of the offence read over and explained to the accused to which he pleaded not guilty and claimed to be tried.

4. In the present case, the prosecution has presented the following oral as well as documentary evidence in support of this case which are as under:

ORAL EVIDENCE

<u>Sr.No</u>	<u>Particular</u>	<u>Ehibits</u>
1	Deposition of Panch witness Chhaganbhai Hirabhai Kotvaliya	05
2	Deposition of Panch witness Dineshbhai Vanjibhai Vasava	07
3	Deposition of I.O. Ravindrakumar Karansing	08

5. DOCUMENTARY EVIDENCE

<u>Sr.No</u>	<u>Particular</u>	<u>Ehibits</u>
1	Original Panchnama	06
2	Original Complaint	09

6. On behalf of the prosecution, the prosecution examined as many as three witnesses and marked exhibits of all the relevant documents produced on record. After the prosecution evidence was over, the accused was questioned u/s.351 of BNSS, 2023 and he denied all incriminating circumstances brought out in the evidence against him. No oral as well as documentary evidence was produced by the defence side in this case.

7. Hd. Ld. APP for the prosecution as well as Ld. Advocate of the accused.

8. The following points arises for consideration in this matter:

:: ISSUES ::

1. Did the accused drive the said Yamaha Company's two wheeler motorcycle bearing registration no.GJ-22- S-5089 in rash and negligent manner in public way endangering the human life and thereby the accused committed offence punishable u/S.281 of The Bharatiya Nyaya Sanhita, 2023?

2. What is the finding & sentence?

9. After going through the material placed on records and evidences, my findings in view of above issues are as under:

1. In the negative.

2. As per final order.

10. The reasons for the decisions on the above issues are as follows:

:: REASONS ::

Issue No.1:

11. When any criminal process is initiated and trial is conducted, the trial is initially conducted with two types of presumption in which the accused is presumed

innocent of the crime committed by him as per the criminal jurisprudence, until the charges against him is proven, and the onus of proving of charges against the accused is beyond reasonable doubt lies with the prosecution, which does not diminish at any time. Along with this, the judicial analysis in criminal cases has to be done with the assumption that the witnesses who come to the Court and give evidence are telling the truth in the Court. The Hon'ble Supreme Court of India has given guidance in various judgments to analyze evidence of criminal trials. In the judgment of *Lekhraj Vs. State of Himachal Pradesh & Anising Vs. State of U.P.*, the Hon'ble Supreme Court of India has given guidance on how to analysis the testimony of witnesses considering the geographical, economical and social conditions of our country and while giving that guidance, the Hon'ble Supreme Court of India has stated that, Court has to discharge two types of responsibility. In the first type of responsibility, the Court has to see that no innocent person is punished, but at the same time, the Court also has to see that a criminal should not escape from the criminal act he has committed. The Hon'ble Supreme Court of India has also pointed out that when witnesses give evidence in the Court, they are generally not of sound mind and are not familiar with the intricacies of the law. In such circumstances, they often create contradiction, inconsistencies and excesses in their testimony and if this does not adversely affect the prosecution case, then such inconsistencies, contradiction and excesses should be condoned, but if such contradiction, inconsistencies and excesses affect the substance of the prosecution's case, the accused should get benefit of it.

12. In the present case, the prosecution has examined PW-1 Chhaganbhai Hirabhai Kotvaliya, who is Panch witness of place of offence i.e. Panchnama which is produced vide Exh.6. In his testimony, he has only identified his signature and denied all the facts mentioned in the Panchnama. He turned hostile to the case of the prosecution and in cross-examination of Ld. Advocate of accused, he has

admitted that, without reading the Panchnama he has simply signed the Panchnama which was prepared by the Police. He also admitted that, in his presence no-one was arrested or detained at that time.

13.In the present case, the prosecution has examined PW-2 Dineshbhai Vanjibhai Vasava, who is also Panch witness of place of offence i.e. Panchnama which is produced vide Exh.6. In his testimony, he only identified his signature and denied all the facts mentioned in the Panchnama. He turned hostile to the case of the prosecution and during the cross-examination, he has admitted that, without reading the Panchnama he has simply signed the Panchnama which was prepared by the Police. He also admitted in the Panchnama that, in his presence no-one was arrested or detained at that time.

14.In the present case, the prosecution has examined PW-3 Ravindrakumar Karansingh, Complainant / Investigating Officer (I.O), who has conducted the investigation, prepared place of panchnama , recorded the statements of the witnesses and submitted his final report after completing the whole investigation. Further, the I.O of the present case is also the complaint, hence, he identified his own signature on the complaint which is produced vide Exh.11. The said witness was cross-examined by the Ld. Advocate of the accused, in which he admitted that, in his complaint, he has not mentioned the speed of the two wheeler splendor bike which was driven by the accused at the public way. He further admitted in his complaint that he has not mentioned the details of the Government vehicle which was used during the raid. He also admitted the name and address of the Panchas were also not mentioned in the complaint. Further, he has admitted that he is complainant as well as Investigating Officer of the present case.

15. At this juncture, it is worthwhile to mention the judgment given by the Hon'ble Supreme Court of India in the case of *Bhagwan Singh Vs. State of Rajasthan given by the reported in AIR 1976 SC 985*, in which it is held that:

"if evidence is done by the Police Officer, it would be an infirmity in the case which bound to reflect on the credibility of the prosecution."

ALLEGED OFFENCE IS THE RESULT OF RASH AND NEGLIGENT
DRIVING OF THE ACCUSED AT A PUBLIC PLACE.

The law is well-settled that in order to prove rashness or negligence, the prosecution cannot merely allege the same but the rashness or negligence has to be proved as a fact.

It was held in *Niranjan Singh vs. The State (Delhi Administration) 1977 Cri LJ 333* held that 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 or 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. Thus the main criterion for deciding whether the driving which led to the accident was rash and negligent is not only the speed of the offending vehicle but deliberate disregard to the obligation of its driver to drive with due care and attention and taking a risk of indifference as to the harmful consequences resulting from it. In a case of this nature, the test is whether the prosecution has proved that :

(i) the accused was driving the vehicle in such a manner as to create an obvious and serious risk of causing physical injury to some other person who

might happen to be using the road or doing substantial damage to the property;

(ii) in driving the vehicle in that manner the accused did so without having given any thought to the possibility of there being any such risk or, having recognized that there was some risk involved, had nonetheless gone on to take it.

16. After perusing the case, police papers as well as all the evidences on the record by the prosecution, it is curled out that the prosecution is mainly relied upon the panch witnesses, who remained present during the said raid conducted by the Police Officer, as panch witnesses are examined in the present case and their testimony is also produced vide Exh.5 & Exh.7, both the panch witnesses turned hostile and did not support the present case of the prosecution. Thereafter, the prosecution examined the I.O / complainant who is a Police Officer and deposed the work done by him. On ascertaining evidence in this case, the prosecution has failed to prove the offence against the accused.

17. Thus, if the entire evidence on record is carefully examined, the prosecution could not bring any evidence on record that the accused in this case was driving his two wheeler in rash and negligent manner in a public way. Upon considering the oral as well as the documentary evidence as well as the entire record of the present case, the prosecution has failed to prove any charges framed against the present accused on the record without any reasonable doubt. Therefore, I answer the issue no. 1 in the negative and as far as issue no.2 is concerned, I pass the following order in the interest of justice:

:: ORDER ::

1. The accused, Niteshbhai Aamsiyabhai Vasava residing at Devsanki Village, Nishal Faliyu, Taluka: Sagbara, District: Narmada, is acquitted of the charges u/S. 281 of The Bharatiya Nyaya Sanhita, 2023, in accordance with Section 278 of the Bharatiya Nagarik Suraksha Sanhita, 2023.
2. The accused is hereby ordered to furnish bail bond of Rs.10,000/- (Rupees Ten Thousand Only) and one surety of a like amount in view of the section 481 of The Bharatiya Nagarik Suraksha Sanhita, 2023.
3. The accused is set free. Property, if any, shall be disposed of as per the rules after the appeal period.

Signed & pronounced in open Court on 27th March, 2026.

Place: Umarpada, Surat
Date : 27-03-2026

(Vipulbhai Nagarbhai Patel)
Principal Civil Judge & J.M.F.C
Umarpada, Surat
UID:- GJ01766