

State Vs. Kuldeep

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HRRH030149692018



Presented on : 29-05-2018
Registered on : 29-05-2018
Decided on : 20-07-2026
Duration : 8 years, 1 months, 22 days

IN THE COURT OF
Chief Judicial Magistrate
AT ,Rohtak
(Presided Over by Sh. Mohommad Sageer)

CHI/953/2018

State	Versus	Kuldeep son of Bhim Singh, r/o Madoti Jatan Kalanaur.
		<i>...Accused</i>

F.I.R No. 129 of 03.03.2018
U/S. 279, 337, 338 & 304A of IPC
Police Station : City, Rohtak.

Present : Sh. Deepak Chahal, Ld. APP for the State assisted by Sh.
Puneet Chahal, counsel for the complainant.
Accused Kuldeep on bail with Ld. counsel Sh. S.P. Dhankar,
Advocate.

JUDGMENT:-

The above named accused has been sent up to face trial for commission of offence punishable under Sections 279, 337, 338 & 304A of IPC by the police of Police Station, City, Rohtak.

2. The brief facts of the prosecution case are that present case was registered on the complaint of Ajay son of Jaipal, r/o village Bahrana District Jhajjar dated 03.03.2018, wherein he submitted that on 03.03.2018, his brother Sanjay and his nephew Rahul son of Jaipal on the motorcycle bearing registration No. DL-9S-AJ-2042 marka Apache were going to his

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sister's house situated in village Karsindhu District Jind to pick up his nephew. When they arrived at the Jind-Hisar bypass bridge with his nephew, an unknown vehicle approached at high speed, driving recklessly and negligently, and collided with his brother's motorcycle. Sanjay was the rider of the motorcycle at that time. Due to which all of them fell down and Sanjay got injuries on his head and leg, then Rahul and nephew Nitesh also got injuries. The police also reached there and admitted him to PGIMS, Rohtak in a private vehicle for treatment where the doctor declared Sanjay dead. They have no information about the vehicle. Action be taken against the accused-driver.

3. On the basis of this, present case was got registered u/s 279, 337, 338 & 304-A of IPC. Investigation was started. During the course of investigation, the accused was arrested. On completion of investigation, challan against the accused was produced before this court.

4. Copy of challan was supplied to the accused free of cost as per Section 207 Cr.P.C and on finding a prima-facie case punishable under Sections 279, 337, 338 & 304A of IPC, accused was charge sheeted vide order dated 07.06.2018 to which accused pleaded not guilty and claimed trial.

5. In order to prove its case, prosecution examined following witnesses:-

PW-1	: Rohtash
PW-2	: Retd. SI Shamsheer Singh
PW-3	: Ajay

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PW-4 : ASI Mukesh

PW-5 : Raj Singh

PW-6 : Takdir

PW-7 : EHC Ashwani Kumar

PW-8 : ASI Baljit Singh

PW-9 : Ram Karan

6. Besides this following documents are as under:-

Ex. PW1/A	Dead body identification statement of Rohtash
Ex. PW2/A	Police proceedings
Ex. PW2/B	Site plan
Ex. PW2/C	Recovery memo of motorcycle and RC
Ex. P1 to P5	Photographs
Ex. P6 to 9	DL, RC, insurance and Fitness of Canter
Ex. P10	RC of motorcycle
Ex. PW2/D & E	Applications for PMR
Ex. PW2/F	Recovery memo of DL, RC, insurance of fitness of canter
Ex. PW3/A	Complaint
Ex. PW4/A	FIR
Ex. PW7/A & B	Mechanical Inspection reports
Ex. P1 to P7	PI, MLRs, PMRs, BHT of Nitesh and Rahul

7. Thereafter, Ld. APP for the State closed the prosecution evidence vide statement dated 13.07.2026.

8. Statement of accused under Section 313 Cr.P.C. was recorded in which entire incriminating material came in prosecution evidence was put to

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accused to which he denied all the allegations and pleaded that he has been implicated in a false case. Accused opted not to lead evidence in his defence.

9. Learned APP for the State has argued that prosecution has duly proved its case and prayed for conviction of the accused. However, Ld. defence counsel argued the matter from the side of accused and submitted that accused has been falsely implicated in this case and prayed for acquittal of the accused.

10. I have heard the Id. Counsel for the accused and perused the case file canterefully. After hearing the arguments, the court has come to the conclusion that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt for the following reasons –

11. Firstly, although the prosecution has examined witnesses, yet the prosecution has not been able to bring home the guilt of the accused, because for offence punishable under Sections 279, 337, 338 and 304A of IPC following ingredients must be proved viz .

1. that accused was driving or riding vehicle,
2. that such driving is or riding must be on public way,
3. that driving or riding is rash or negligent,
4. that driving endangered the human life or likely to cause hurt and caused death of any person.

12. First of all, the prosecution has miserably failed to prove the identification of the accused as the driver of alleged offending canter and also that the offending canter was involved in the present accident which allegedly caused death of Rahul and Sanjay and injuries to Nitesh and also failed to prove any rashness and negligence on the part of the accused.

13. As per the complaint Ex.PW3/A, it is clear that the complainant was not present at the spot and was not an eye witness rather he was a hearsay witness. There is nothing mentioned in the complaint that he saw the accident himself. Even the number, marka of the offending vehicle is also not mentioned. The complainant appeared as PW-3 and clearly deposed that he was informed about the accident. Therefore, it is proved that he was not an eye witness. He even stated that he was told that Tata canter-407 hit the motorcycle. He also stated that after 03 days accused and others came to their house and his father was present and they told his father about the number of the vehicle and about accused Kuldeep. He in his cross-examination admitted that he did not see the accident from his own eyes and he was present at village Bahrana at that time. Therefore, his testimony is not acceptable being hearsay.

14. In the whole prosecution witnesses, apart from PW-5 Raj Singh, there was no eye witness of the incident. However, this court entertains serious doubt at his presence on the place of occurrence at the time of accident. He did not depose as to from where he was going and for what purpose, he was present at the place of occurrence. He stated in his cross-examination that he was present at the place of occurrence at 01.00 PM. Whereas the MLR and police information Ex. P1 and P2 says that accident occurred at around 1.45 PM and injured were brought to the PGIMS, Rohtak at 2.20 PM by the police. If PW-5 was going for some personal work then why he stopped at the place of occurrence for 45 minutes and it has not been explained. He stated that he did not counted the vehicles crossed him on that

day nor noted number of any vehicle. Therefore, it is very surprising as to how he noted the number of the offending vehicle. He even could not say who shifted the injured persons to PGIMS, Rohtak. He stated that police met him on the same day in Trauma Center, PGIMS, Rohtak. However, it is not possible because it was the police who came on the spot and took the injured to the PGIMS, Rohtak as is clear from the police proceedings Ex.PW-2/A as well as PI and MLR Ex. P1 & P2. This clearly shows that PW-5 was not present at the spot. He also stated that police did not record his statement on that day. He stated that he met with the police after the incident on 09.03.2018 at the place of occurrence where police already caught the accused and got his statement recorded on that day and took his signatures. This statement cannot be believed because when he was present at Trauma Center, PGIMS, Rohtak and police was investigated and then why he did not give his statement if he was an eye witness and why he waited for 01 week and suddenly when he was going on the same direction, he saw the police catching the accused at the place of occurrence. Further, there is no signature of Raj Singh on his statement under Section 161 Cr.P.C. dated 09.03.2018. This further shows that he was only a planted witness. In his cross-examination, he also stated that he did not saw the marka and number of the accidental motorcycle. It is very strange that he noted the number of the offending Tata canter which fled away from the spot but did not note the number of the accidental motorcycle which was lying there. Therefore, in the considered view of the Court, he was not an eye witness and his testimony cannot be believed.

15. Even the prosecution failed to ask any question regarding the identification of the driver of the offending vehicle from the owner of the vehicle PW-9 and this also goes against the prosecution as it fails to connect the accused with the accident in question.

16. Rest of the witnesses are formal in nature who did not see the accident. Therefore, the prosecution failed to prove the identification of the accused as the driver of the alleged offending canter and also that alleged offending canter was involved in the present accident. There is no CCTV footage etc. showing the accident. Mechanical inspector report of offending canter Ex. PW7/B only shows some marks on the front side and on the right door of the canter in question but it was done on 09.03.2018 after one week and therefore, the damages on the canter can come due to other reasons also.

17. Further, the prosecution also failed to prove rash and negligent driving on the part of the accused as the complainant was not present at the spot and testimony of alleged eye witness Raj Singh-PW5 is not found to be reliable. Only bald oral statement that offending canter was being driven in rash and negligent manner is not sufficient to prove the rash and negligent driving on the part of the accused.

18. It has been held by the Hon'ble Supreme Court in **SL Goswami Vs. State of M.P., 1972 AIR 716**, that the accused is entitled to the benefit of doubt where the onus of proving the ingredients of the offence is not discharged by the prosecution.

19. It was also held in **Narender Singh and Anr vs. State of M.P 2004 (3) RCR Criminal 613**, Hon'ble Supreme Court of India has held that

presumption of innocence is a human right. Burden of proof remains on prosecution. Similarly, in Suchan Pal Vs. Phani Pal and Anr reported in 2004 (1) RCR Criminal 221, the Hon'ble Supreme Court of India held that prosecution can succeed by substantially proving the version it alleges. It must stand on its own legs and cannot take advantage of the weakness in defence case. In this case, Hon'ble Supreme Court also held that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted.

20. Accordingly, on the basis of the above discussion, this Court is of the view that the prosecution has failed to prove its case against the accused beyond the shadow of doubts and the accused is entitled to the benefit of doubt and resultantly to the acquittal, to which, this Court orders accordingly. Accused **Kuldeep** is **acquitted** of the charges leveled against him. His bail bonds stands discharged. File after due compliance be consigned to record room.

Announced in open Court.
Dated :-20.07.2026

(Mohammad Sageer)
Chief Judicial Magistrate,
Rohtak. UID No. HR0381.

Note: Certified that this judgment contains 08 pages and each page has been duly checked and signed by me.

(Mohammad Sageer)
Chief Judicial Magistrate,
Rohtak. UID No. HR0381.

Dinesh