

**IN THE COURT OF MS SUMAN
JUDICIAL MAGISTRATE 1st CLASS BAHADURGARH
UID No. HR 0680**

HRJRA10066662023



Criminal Case No. : 64/2023

CIS No. : CHI-489-2023

Date of Institution : 08-09-2023

Date of Decision : 01-03-2025

State Vs. Harsh son of Surender, resident of village
Asauda, District Jhajjar (Haryana).

..... Accused

FIR No. 20 dated 19-07-2023
U/s: 279, 337, 338 & 506 of IPC & 180
M.V Act.
PS: GRP, Bahadurgarh.

Present: Ms. Pooja Yadav, Ld. APP for the State.
Accused Harsh on bail represented by Sh. Krishan Sihmar,
Advocate.

JUDGMENT:-

The above named accused has been sent up by S.H.O., PS
GRP, Bahadurgarh to face trial for the commission of offences punishable
under Sections 279, 337, 338 & 506 of Indian Penal Code (hereinafter
referred as “IPC”) and Section 180 of Motor Vehicle Act (hereinafter
referred as “M.V. Act”).

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2. In nutshell, it is the case of prosecution that on 19-07-2023, at about 08:00 AM, you the above named accused drove your vehicle bearing registration No. HR-12U-9702, without having any driving licence, so rashly and negligently as to endanger human life and personal safety of others and while driving the said vehicle, caused simple hurt as well as grievous hurt to complainant Roshni Devi and further criminally intimidated them for dire consequences and thereby, committed said alleged act. Police action is sought against the driver of the offending vehicle.

3. Ruqa was sent to the police station. Statement of complainant recorded, on which, formal FIR was registered. Site plan was prepared. Investigation was conducted and accused was arrested. After completion of other necessary formalities of investigation, challan was presented in the Court to face trial.

4. On appearance of accused in the court, copy of charge-sheet along-with the accompanied documents were supplied to accused free of cost as contemplated under Section 207 Cr.P.C.

5. After hearing of learned APP for State as well as learned defence Counsel and on an appraisal of entire documents accompanied with the challan, a prima-facie case for the commission of offence punishable under Sections 279, 337, 338 & 506 of IPC & 180 M.V Act, was found to be made out against accused. Accordingly, he has been

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charge sheeted vide order dated 24-01-2024. Contents of charges were read over and explained to the accused in simple Hindi, to which; he pleaded not guilty and claimed trial. Therefore, the prosecution was allowed to lead evidence in order to prove factum of charge.

6. In order to prove its case, the prosecution has examined as many as three witnesses i.e. Roshni Devi (Complainant) as PW1, Jatin (alleged-eye-witness) as PW2 & Ct. Pardeep as PW3. Brief summary of prosecution evidence are as follows:-

(i) PW1 who is the complainant stepped into the witness-box and deposed that on 19-07-2023, when she was going to Asauda Railway Station with his grandson on a bike, then her grandson lost his balance and fell down on the road and got injured. She further deposed that accused Harsh did not hit our bike with his car. Thereafter, she failed to identify accused present in the court. Thereafter, on the request of learned APP for the State, she was declared hostile. The said witness was cross-examined by learned APP. In cross-examination, she denied the contents of her complaint given to the police Ex. PW1/A. She further stated that she has not given any complaint to the police officials. She denied all the suggestions of the learned APP. Thereafter, nothing fruitful was extracted in favour of prosecution in cross-examination of said witness.

(ii) PW2 is alleged-eye-witness of the instance. He deposed that on 19-07-2023, when he was going to Asauda Railway Station with his grandmother on a bike, then he lost his balance and fell down on the road

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and got injured. He further deposed that accused Harsh did not hit our bike with his car. Thereafter, he failed to identify accused present in the court. Thereafter, on the request of learned APP for the State, he was declared hostile. The said witness was cross-examined by learned APP. In cross-examination, he denied the contents of his statement given to the police Ex. PW2/A. He further stated that he has not given any statement to the police officials. He denied all the suggestions of the learned APP. Thereafter, nothing fruitful was extracted in favour of prosecution in cross-examination of said witness.

(iii) PW3 Pardeep Kumar stepped into the witness box and deposed that on 01-08-2023, he was posted at GRP, Bahadurgarh and on that day he was involved in investigation alongwith Investigating Officer Naresh Kumari. He further proved appearance memo of accused Ex. PW3/A, which bears his signatures at point A. Kuldeep (Uncle of accused) produced the vehicle used in the alleged offence as well as documents and same taken into police possession vide memo Ex. PW3/B, Notice under Section 41 Cr.P.C Ex. PW3/C, disclosure memo of accused Ex. PW3/D, demarcation of place of occurrence Ex. PW3/E & notice under Section 133 of MV Act Ex. PW3/F, which bears his signatures at point A.

7. Thereafter, learned APP has closed the prosecution evidence as material witnesses have not supported the case of prosecution and turned hostile vide her separate statement dated 27-02-2025.

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8. Statement of the accused under Section 313 of Cr.P.C was recorded, wherein all the evidence led by the prosecution put to him but the same was denied by him. He pleaded his innocence and false implication in the present case. He chose to lead evidence in his defence. However, accused has not produced any evidence in his defence and same has been closed by accused vide his separate statement dated 01.03.2025.

9. I have heard learned APP for the State as well as learned defence counsel for accused. I have also gone through the case file very carefully. I have given my thoughtful consideration to the arguments of both the parties.

10. The appreciation of prosecution evidence goes to show that the testimonies of PW1 (complainant) and PW2 Jatin (alleged-eye-witness are most material to constitute the alleged offence against the accused. Let us analyze their testimonies one by one to ascertain the authenticity of the prosecution version.

11. First of all, PW1 who is the complainant in this case has not supported the prosecution case. This witness has specifically deposed that on 19-07-2023, when she was going to Asauda Railway Station with his grandson on a bike, then her grandson lost his balance and fell down on the road and got injured. She further deposed that accused Harsh did not hit our bike with his car. Thereafter, she failed to identify accused present

in the court. Thereafter, on the request of learned APP for the State, she was declared hostile. The said witness was cross-examined by learned APP. In cross-examination, she denied the contents of her complaint given to the police Ex. PW1/A. She further stated that she has not given any complaint to the police officials. She denied all the suggestions of the learned APP. Thereafter, nothing fruitful was extracted in favour of prosecution in cross-examination of said witness. In other words, PW1 who is the complainant in this case has given clean chit to the accused.

12. Thereafter, PW2 also sat in the same boat by not supporting the prosecution case. This witness was also declared hostile on the request of learned APP for the State on the ground of suppression of truth. Thereafter, learned APP for the State were permitted to cross examine PW2. However, no contradictory material could be fetched from his cross examinations which may help the prosecution case. These witness categorically stated that he does not gave any statement (PW2/A) to the police. In these circumstances, there is no cogent and convincing evidence against the accused to prove any allegation against him. So, the accused is entitled to the benefit of doubt on this score only. As per above discussion, where complainant herself has not supported the case and resiled from her earlier statement, then there is nothing on record which can prove that accident was caused by the accused. No doubt, statement of a hostile witness should not be thrown overboard and so much part of the statement of hostile witness which is consistent with the

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prosecution story can still be taken help to convict the accused. In recent judgment in case titled as ***State of Rajasthan Vs. Teg Bahadur, reported as 2004 (4) Recent Criminal Reports 538***, the Hon'ble Supreme Court of India has held *that*

“evidence of a hostile witness would not be totally rejected if submitted in favor of the prosecution or accused, but it can be subjected to close scrutiny and that portion of the evidence, which is consistent with the case of the prosecution or defence may be accepted.”

ii) If statement of the complainant examined as per above authority, still the evidence is insufficient to prove that accused caused accident. As far as testimonies of remaining witnesses are concerned, same have proved the procedural aspect of the case but insufficient to prove the prosecution case beyond reasonable doubt.

13. Next, the present case is based upon evidence of Police official alone without any corroboration from an independent source. If so, it is not suited to convict the accused based upon evidence of Police official alone and the accused is entitled to benefit of doubts. The Hon'ble Punjab & Haryana High Court in case titled **“Jasbir Bhati @ Jasbir Singh V/s State of Haryana, 2011(1) RCR (Criminal 626”** has held that where *“Only police official supported the prosecution case, it is not suited to convict the accused on the basis of testimony of only police official alone. Accused is entitled to benefit of doubt”*.

14. Lastly, it is settled proposition of law that prosecution has to

prove its case beyond all reasonable shadow of doubts. In case titled **“Narender Singh and Another Vs State of MP, 2004 (3) RCR (Criminal) 613”** the Hon'ble Supreme Court of India has held that *"Presumption of innocence is a human right and burden of proof to prove otherwise remains on the prosecution"*. Further, in a criminal case mere suspicion, however strong, cannot take the place of proof. Between "may be true" and "must be true" there is inevitability a long distance to travel and whole of this distance must be covered by the prosecution by legal, reliable and unimpeachable evidence before the accused can be held guilty of accusations. The prosecution has not covered the same in the present case for reasons discussed above. Further, the divisional bench of the Hon'ble Punjab & Haryana High Court in case titled **“State of Haryana Vs Shamsher Singh, 2006 (3) RCR (Criminal) 345”** has held that in criminal trial the prosecution is cast with a very serious duty to bring on record quality evidence in order to substantiate its allegations against the accused. It can not seek conviction of any person without bringing substantial evidence on record as it becomes extremely difficult for the Court to pronounce a person guilty in absence of fool proof evidence nailing guilt by the accused person. In present case, the prosecution has not been able to bring such evidence against the accused so as to convict him for the charged offence. Rather, whole prosecution case remained full of flaws & doubts for reasons discussed above and so the accused deserves benefit of same.

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15. For the reasons mentioned above, this Court considers that the prosecution has failed to prove its case against the accused beyond reasonable doubts. So, the accused is hereby acquitted from the charges framed against him. Case property, if any, be dealt with as per rules after the expiry of period of limitation to file the appeal. File be consigned to Judicial Record Room, after due compliance.

**Pronounced in open court
on this 01st day of March, 2025**

Ishwer, Stenographer

**(Suman),
Judicial Magistrate Ist Class,
Bahadurgarh (UID:HR0680)**

Certified that all the nine pages of this judgment have been checked and signed by the undersigned.

**(Suman),
Judicial Magistrate Ist Class,
Bahadurgarh (UID:HR0680)**

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