

State Vs. Surender

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HRRH030222032017



Presented on : 14-11-2017
Registered on : 14-11-2017
Decided on : 20-07-2026
Duration : 8 years, 8 months, 6 days

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

CHI/1978/2017

State Versus Surender son of Ramdhari r/o Bahu Jamalpur
District Rohtak.

...Accused

F.I.R No. 464 of 14.07.2017
U/S. 279, 337 & 304A of IPC
Police Station : City, Rohtak.

Present : Sh. Deepak Chahal, Ld. APP for the State assisted by Sh.
Rajesh Sharma, counsel for the complainant.
Accused Surender on bail with Ld. counsel Sh. Rajesh Balhara
& Sh. Nakul Ahlawat, Advocate.

JUDGMENT:-

The above named accused has been sent up to face trial for commission of offence punishable under Sections 279, 337 & 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 Dharamvir son of Bhim Singh, r/o Sector-4 Extension, Rohtak dated 14.07.2017, wherein he submitted that he is working in ASDE PWD, Rohtak. He has two children. Today, at around 10.30 AM, his wife Meena Chaudhary, a Member of NLM General Council

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Government of India, was going to Suncity on Activa bearing registration No. Hr-12-AC-3107 with his servant Ashish to feed the ants. Ashish was driving the activa in his side. A car driver coming from behind was driving his car very fast and carelessly and hit the activa directly from behind due to which his servant Ashish and his wife Meena Chaudhary fell on the road. Ashish got minor injuries and his wife got more injuries. Ashish arranged for another vehicle and got his wife admitted to PGIMS, Rohtak during which his wife died. The car driver fled the scene with his car and is undergoing treatment at PGIMS, Rohtak for injuries sustained in an accident. Action be taken against the accused-car driver.

3. On the basis of this, present case was got registered u/s 279, 337 & 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 & 304A of IPC, accused was charge sheeted vide order dated 16.01.2018 to which accused pleaded not guilty and claimed trial.

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

PW-1	: Azad Singh
PW-2	: Ranbir Singh
PW-3	: ASI Baljeet Singh
PW-4	: Ashish Kumar

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PW-5 : Retd. EHC Ashwani Kumar

PW-6 : SI Harnender Singh

PW-7 : Dharmvir Singh

6. Besides this following documents are as under:-

Ex. PW1/A	Dead body identification statement of Azad Singh
Ex. PW1/B	Dead body identification statement of Ranbir Singh
Ex. PW3/A	Police proceedings
Ex. P1	Death PI
Ex. PW3/B	Proceedings under Section 174 Cr.P.C.
Ex. PW3/C	Application for PMR
Ex. PW3/D	Receipt of dead body
Ex. PW3/E	Site plan
Ex. P1 to P6	Photographs
Ex. P7 to P9	DL, Trade certificate and insurance of Ford figo
Ex. PW3/J	Superdari order
Ex. P1A	Death PI
Ex. P2A	PI
Ex. P3A	MLR of Ashish
Ex. P4A	PMR of Meena
Ex. P5A	MLR of Meena
Ex. PW5/A & B	Mechanical inspection reports
Ex. PW6/A	Affidavit of SI Harnender
Ex. PW6/B	Copy of register No. 19
Ex. PW7/A	Complaint

7. Thereafter, Ld. APP for the State closed the prosecution evidence vide statement dated 09.07.2026.

8. Statement of accused under Section 313 Cr.P.C. was recorded in

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which entire incriminating material came in prosecution evidence was put to 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 ld. Counsel for the accused and perused the case file carefully. 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 car and also that the offending car was involved in the present accident which allegedly caused death of wife of complainant Meena and injuries to Ashish and also

failed to prove any rashness and negligence on the part of the accused.

13. As per the complaint Ex. PW7/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-7 and clearly deposed that he was informed about the accident by his servant Ashish from PGIMS, Rohtak. Therefore, it is proved that he was not an eye witness. He even stated that he got his satisfaction that car driver Surender of Car No. HR-12TC-650 r/o Bahu Jamalpur, Rohtak was responsible for the accident. However, he failed to explain as to how he got the name of the driver and number of the offending vehicle. He in his cross-examination admitted that he did not see the accident from his own eyes and he did not know the accused from before. Therefore, his testimony is not acceptable being hearsay.

14. In the whole prosecution witnesses, apart from PW-4 Ashish, there was no eye witness of the incident. Even PW-4 failed to disclose the number of the offending vehicle or the marka of it. He nowhere stated that he saw the accused-driver at the time of accident. He only stated that one car came from behind and hit their scooty due to which the fell down and got injured. Thereafter, he took the help of passerby and reached to PGIMS, Rohtak where Meena got died due to injuries. In his cross-examination, he admitted that he did not see by turning back whether the car was coming in rash or speedy manner and stated that he was riding the scooty. He also

admitted that he did not know the name of the accused and got to know about the same only when panchayat came. He stated that police took his statement in the PGIMS, Rohtak meaning thereby on the same day. In his statement u/s 161 Cr.P.C., date is missing but it has been mentioned about the marka and number of the offending car and name of the driver. However, it is not possible because as per the complainant PW-7, alleged panchayat came after 2-4 days of cremation of Meena and therefore, it is not possible that Ashish was knowing anything about the accused or about the offending car on the date of accident. He was having any such knowledge then why he did not disclose to the complainant on the same day and why there is nothing in the complaint about the accused or the offending car. He also stated in his cross-examination that he did not know about the whole number of offending car. He stated that he was not called by the police after the arrest of the driver and therefore, even his identification is not admissible. Therefore, from his testimony also, it is clear that he did not know about the accused-driver or about the number and marka of the offending vehicle.

15. 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 car and also that alleged offending car was involved in the present accident. There is no CCTV footage etc. showing the accident. Mechanical inspector report of offending car Ex. PW-5/A only shows damages on the back portion and front portion of the car in question but it was done on 17.08.2017 after recovery memo of Car Ex. PW-3/H dated 24.07.2017. There is gap of more than 01 month and

therefore, the damages on the car can come due to other reasons also.

16. 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 eye witness Ashish was not in a position the manner of driving of the offending car nor he deposed that it was being driven rash and negligent manner. He simply stated that one car came from behind in speedy manner and hit the scooty. However, he admitted in his cross-examination that he did not turn back to see whether the car was coming in speedy manner or not. Only bald oral statement that offending car was being driven in rash and negligent manner is not sufficient to prove the rash and negligent driving on the part of the accused.

17. 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.

18. 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

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guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted.

19. 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 Surender 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