

RCT No.118/2020
State Vs. Rajesh Kumar Rajak

<u>IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,</u> <u>NARSINGHPUR (M.P.)</u> <u>Present - Smt. Aishwarya Jain</u>									
	<table> <tr> <td>Registration No.</td><td>RCT/118/2020</td></tr> <tr> <td>Filing No.</td><td>RCT/615/2020</td></tr> <tr> <td>CNR No.</td><td>MP49010007302020</td></tr> <tr> <td>Filing Date</td><td>03.02.2020</td></tr> </table>	Registration No.	RCT/118/2020	Filing No.	RCT/615/2020	CNR No.	MP49010007302020	Filing Date	03.02.2020
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[Judgment Date – 28.11.2024] (Details of FIR/Crime and Police Station:- Crime No.01/2020 U/s. 279, 304-A of IPC registered at Police Station Mungwani, District Narsinghpur)									
PROSECUTION	STATE OF MADHYA PRADESH THROUGH SHO P.S. MUNGWANI DISTRICT NARSINGHPUR M.P.								
REPRESENTED BY	SHRI INDRAMANI GUPTA, ADPO								
ACCUSED	RAJESH KUMAR RAJAK S/O JAGANNATH RAJAK, AGED- 38 YEARS, R/O VILLAGE MAJHGAWA, POLICE STATION PANAGAR, DISTRICT JABALPUR (M.P.)								
REPRESENTED BY	SHRI SHAILESH SAHU, ADVOCATE								

Date of Offence	31.12.2019
Date of FIR	02.01.2020
Date of Charge sheet	03.02.2020
Date of Framing of Charges	10.08.2021
Date of commencement of evidence	10.08.2021

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Date on which judgment is reserved	28.11.2024
Date of the Judgment	28.11.2024
Date of the Sentencing Judgment, if any	NIL

ACCUSED DETAILS

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428, Cr.P.C.
1	Rajesh Kumar Rajak	20.01.2020 (Released on Muchalka)	03.02. 2020	Section 279, 304-A of IPC	Acquitted	-	-

List of Prosecution/Defence/Court Witnesses

A. Prosecution-

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	SHYAMA BAI	OTHER WITNESS
PW2	PRAKASH CHANDRA THAKUR	OTHER WITNESS
PW3	DILIP SINGH SISODIYA	POLICE WITNESS

B. Defence Witnesses, if any:

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RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL	NIL	NIL

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL	NIL	NIL

List of Prosecution/Defence/Court Exhibits

A. Prosecution:

Sr. No	Exhibit Number	Description
1.	Exhibit P-1/PW 1	STATEMENT OF SHYAMABAI U/S 161 OF CR.P.C.
2.	Exhibit P-2/PW 2	STATEMENT OF PRAKASH CHANDRA THAKUR U/S 161 OF CR.P.C.
3.	Exhibit P-3/PW 3	FIRST INFORMATION REPORT
4.	Exhibit P-4/ PW 3	SPOT MAP
5.	Exhibit P-5/ PW 3	NOTICE U/S 133 OF M.V. ACT
6.	Exhibit P-6/ PW 3	SEIZURE MEMO
7.	Exhibit P-7/PW 3	ARREST MEMO
8.	Exhibit P-8/PW 3	NOTICE

B. Defence:

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Sr. No	Exhibit Number	Description
1	NIL	NIL

C. Court Exhibits:

Sr. No	Exhibit Number	Description
1	NIL	NIL

D. Material Objects:

Sr. No	Material Objects Number	Description
1	NIL	NIL

//JUDGMENT//
(Passed on this 28.11.2024)

1. The accused Rajesh Kumar Rajak has been tried and stand charged for offence punishable under **Section 279 and 304-A of IPC** with the allegation that he, on 31.12.2019 at about 01:10 PM, at Gorakhpur Road, Village Pipariya, which comes under Police Station Mungwani, drove the Car bearing registration No. MP-20-CF-6796 rashly and negligently and caused danger to human life. It is also charged that he, on the date of incident at public place drove the offending vehicle Car rashly and negligently and caused the death of Brajesh Thakur by driving the offending vehicle, which is an act not amounting to culpable homicide.

2. The prosecution case in brief is that on 02.01.2020 a merg was registered at Police Station Mungwani, to the effect that on 31.12.2019 Brajesh Thakur alongwith Lalsahab and Prakash Thakur were returning to Village Patha from Village Harrai, District Chhindwara by riding motorcycle and motorcycle was driven by Prakash Thakur, at about 10:30 PM, they reached at Village Pipariya, Near Gogabari, a driver of white colour Car came there from back side by driving the offending vehicle rashly and negligently and hit the motorcycle from back side, on which deceased was sitting, due to which they fell-down and sustained injuries and Brajesh sustained injuries in his head, nose, mouth. They were taken to Hospital, where doctor declared Brajesh Thakur dead. After merg inquiry, an FIR crime No. 01/2020 U/s 279, 304-A of IPC was registered against the driver of offending vehicle at Police Station Mungwani.

3. Investigating officer during the investigation prepared Spot Map and gave notice to the Panchas and gave notice U/s 133 of M.V. Act to the owner of the vehicle and prepared inquest report and arrested the accused vide Arrest Memo and he seized the offending vehicle vide Seizure Memo. During the investigation, statements of prosecution witnesses were recorded, under Section 161 of Cr.P.C. After completion of investigation, final report was filed against the accused before the Court.

4. The charges for offence as mentioned in **Para no. 1** of this judgment were framed against the accused. That charges were read over and explained to the accused. Accused abjured the guilt and claimed to be tried. On examination under Section 313 of Cr.P.C., accused has taken a defence that he has been falsely implicated in this crime. Accused did not examine any witness in support of his defence.

5. To bring home the accusation, prosecution has produced as many as 03 witnesses, namely: wife of deceased Shyama Bai (PW-1), eye witness Prakash Chandra Thakur (PW-2) and investigating officer Dilip Singh Sisodiya (PW-3).

6. Points for determination in this case are :-

1.	Whether the accused on 31.12.2019 at about 01:10 PM, at Gorakhpur Road, Village Pipariya, which comes under Police Station Mungwani, drove the Car bearing registration No. MP-20-CF-6796 rashly and negligently and caused danger to human life?
2.	Whether the accused on the date of incident at public place drove the offending vehicle Car rashly and negligently and caused the death of Brajesh Thakur by driving the offending vehicle, which is an act not amounting to culpable homicide?
3.	Whether accused committed any offence, if yes, then sentence ?

CONSIDERATION AND REASONS FOR CONCLUSION**Findings on Point no. 1 & 2**

7. Looking to the testimonies of prosecution witnesses, for avoiding repetition of facts and evidence, both points of determination were appreciated together. Prosecution witness Shyama Bai (PW-1) has stated that she has known the accused Rajesh Kumar Rajak since the incident, which was occurred in year 2019, on the date of incident her husband Brajesh alongwith Prakash Thakur went to Harrai Chhindwara by riding motorcycle, till night they did not return, she was informed that accident happened at Gorakhpur road, she went to Narsinghpur Hospital and got to know that her husband Brajesh Thakur died. She has further stated that she did not know the name of driver and vehicle. She has turned hostile and on asked leading question by the prosecution, she has stated that she had not got written A to A part of Police Statement **Exhibit P-1**. She has not stated anything against the accused and she did not identify the accused Rajesh Kumar Rajak. Nothing has been elicited on the record on the basis of which case of prosecution case may be supported.

8. Prosecution witness Prakash Chandra Thakur (PW-2) has stated that he did not know the accused Rajesh Kumar Rajak and incident occurred in year 2019, on the date of incident he alongwith Brajesh were going to Village Harrai District Chhindwara from Agariya by riding motorcycle of Brajesh Thakur, they reached at Gorakhpur

Road, a driver of white colour Car came there from back side and hit the motorcycle, due to which Brajesh Thakur sustained injuries and he was taken to Hospital Narsinghpur, where doctor declared him dead. He has further stated that he did not know the name of driver and vehicle. He has turned hostile and on asked leading questions by the prosecution, he has stated that he had not got written A to A part of Police Statement **Exhibit P-2**. He has not stated anything against the accused and he did not identify the accused. Nothing has been elicited on the record on the basis of which case of prosecution case may be supported.

9. Prosecution witness Dilip Singh Sisodiya (PW-3) has stated that on 02.01.2020 he was posted as Assistant Sub-Inspector at Police Station Mungwani, on the same day he received Merg No. 01/2020 for investigation the case, after merg inquiry he registered an FIR **Exhibit P-3** as Crime No.01/2020 U/s 279, 304-A of IPC against the driver of offending vehicle Rajesh and prepared Spot Map **Exhibit P-4** and gave notice U/s 133 of M.V. Act **Exhibit P-5** and seized the offending vehicle vide Seizure Memo **Exhibit P-6** and arrested the accused vide Arrest Memo **Exhibit P-7** and gave notice **Exhibit P-8** and recorded the statements of prosecution witnesses and filed the charge-sheet before the court. He admitted his signature on all the documents.

10. In the present case independent witnesses have not supported the prosecution story, therefore the prosecution has not examined any other witness. Even if any other prosecution witnesses would have been examined the evidences be brought on record would be of corroborative nature. Since the evidences of medical witness is not substantive in nature and conviction of accused cannot be held on the basis of medical evidence only, where the independent witnesses have not supported the prosecution story. In that case the evidence of other prosecution witnesses would be a mere formality.

11. From perusal of evidence adduced by prosecution it appears that there is no direct evidence available on record, which connects the accused Rajesh Kumar Rajak with the alleged offence as no prosecution witness has directly seen the accused Rajesh Kumar Rajak driving the offending vehicle. Therefore, statement of investigating officer Dilip Singh Sisodiya (PW-3) is found only as formal in nature.

12. On the basis of aforesaid discussion it is not found proved that the accused on 31.12.2019 at about 01:10 PM, at Gorakhpur Road, Village Pipariya, which comes under Police Station Mungwani, drove the Car bearing registration No. MP-20-CF-6796 rashly and negligently and caused danger to human life. It is also charged that he, on the date of incident at public place drove the offending vehicle Car rashly and negligently and caused the death of Brajesh Thakur by driving the

offending vehicle, which is an act not amounting to culpable homicide. Thus, charges for offence punishable under Sections 279 and 304-A of IPC is not found proved against the accused Rajesh Kumar Rajak.

Discussion on point No.3

13. On the basis of evidence adduced by the prosecution, charges for offence punishable under Sections 279 and 304-A of IPC 1860 is not found proved against the accused Rajesh Kumar Rajak. Resultantly, accused **Rajesh Kumar Rajak** is **Acquitted** from the charges for offence punishable under **Sections 279 and 304-A of IPC 1860**.

14. The bail and bond of accused shall be discharged.

15. Seized property Car, registration card, driving licence, insurance policy have already been given on Supurdagi to its original owner.

16. Let the certificate of detention under Section 428 Cr.P.C. be prepared in respect of period of detention undergone by the accused during investigation and trial and be attached with the record.

17. Judgment has been explained to the accused in Hindi.

Narsinghpur.
Date:-- 28.11.2024

Sd/-
(Smt. Aishwarya Jain)
Judicial Magistrate First Class,
Narsinghpur (M.P.)