

IN THE COURT OF RAVNEET JUDICIAL MAGISTRATE FIRST
CLASS, KALKA (UID-HR0549)

	CNR No.HRPKA1-002598-2019		
HRPKA10025982019	Case No. CHI-193-2019		
	Filing No.	:	2598-2019
	Date of Institution	:	03-10-2019
	Date of Decision	:	20.08.2026

State Versus Dinesh son of Pran Sukh, resident of
Samar, Bhojpur, Bilsa Badaun, Uttar
Pardesh.

.....*Accused*

FIR No.229 dated 23.10.2018
Under Sections : 279, 337, 304-A of IPC
Police Station: Pinjore.

Present: Sh. Ranvijay Rana, Ld. Assistant Public Prosecutor for the
State.
Accused Dinesh on bail with Sh. B. S. Negi, Ld.Advocate.

JUDGMENT:

The above named accused has been sent to face trial for
commission of offence punishable under Sections 279, 337 & 304-A of
Indian Penal Code pertaining to Police Station, Pinjore.

BRIEF FACTS

2. Briefly stated, the facts of the prosecution case are that on
23.10.2018, a telephone call was received regarding road side accident. After
receiving the said information, ASI Pardeep Kumar reached the spot, where
Mela X-Sarpanch was present, who made a statement to the effect that on
23.10.2018 at about 6:30 AM, while he was going for a walk on the road, he
noticed a car bearing registration No. PB-01-B-7678, white in colour,
proceeding towards Baddi from the Pinjore side. At the same time, a truck
bearing registration No. HP-64-3785 was coming from Baddi-Nalagarh side.

2. State Vs. Dinesh

The driver of the said truck was allegedly driving the truck at a high speed and in a rash and negligent manner and struck the aforesaid car on the conductor side. It is further stated that due to the impact of the collision, the balance of the car was disturbed and the occupants travelling therein sustained serious injuries. Two of the occupants died at the spot, whereas another occupant became unconscious on account of the injuries sustained in the accident. He informed the villagers about the occurrence, pursuant to which several persons and passersby gathered at the spot. The injured persons were taken out of the vehicle and an ambulance was called. The police was also informed, whereafter the injured were taken to Government Hospital, Sector-6, Panchkula, for treatment. He further submitted that the accident had occurred due to the rash and negligent driving of the truck driver, who fled away from the spot after the accident. He further submitted that he could identify the driver if produced before him. He thus prayed that legal action be taken against the driver of the offending vehicle.

3. On the basis of aforesaid statement, FIR of the case was registered and investigation was carried out. Site plan of the site of accident was prepared. The accused was arrested. Statements of the witnesses as envisaged under Section 161 of Cr.P.C. were recorded. After completion of investigation, final report under Section 173 of Cr.P.C. was presented before the Court.

CHALLAN

4. On presentation of the final report under Section 173 of Cr.P.C., copy thereof was supplied to the accused free of costs as provided under section 207 Cr.P.C.

CHARGE

5. On perusal of the file, a prima-facie case for the commission of offences punishable under Sections 279, 337 & 304-A of Indian Penal Code was made out against the accused and he was accordingly charge-sheeted by the court of the then Ld. SDJM, Kalka, vide order dated 28.11.2019 to which he pleaded not guilty and claimed trial.

PROSECUTION EVIDENCE

6. To substantiate its case, prosecution has examined following witnesses:-

Sr. No.	Name of witnesses	Documents Details	Exhibit
PW1	HC Vikram Singh	Seizure memo of Truck and Car	Ex. PW1/A
PW2	ASI Pardeep Kumar	FIR Endorsement	Ex. PW2/A Ex. PW2/B
PW3	ASI Gurbachan Singh	Seizure memo of documents of Truck RC, Fitness Certificate, Insurance, Permit and Driving License	Ex. PW3/A (Ex. P1 to Ex . P4)
		Identification memo of accused	Ex. PW3/B
		Arrest memo	Ex. PW3/C
PW4	Pardeep Verma	Dead body receipt of Agoesh Gopalan	Ex. PW4/A
PW5	Rajmal	Dead body receipt Vipin Kumar	Ex. PW5/A
PW6	Mahavir Parshad	Dead body receipt of Sanjay	Ex. PW6/A
PW7	Dr. Mavav	Postmortem report of Vipin	Ex. PW7/A.
PW8	Ms. Sradha Agosh		
PW9	Tanveer	Seizure memo of documents of vehicle bearing No. PB01B-7667	Ex. PW9/A. (Ex. P1, Insurance Ex.P2, Permit Ex. P3, and

4. State Vs. Dinesh

			Driving License Ex. P4)
PW10	Gurpal Singh	Rc of vehicle bearing No. HP64-3785. Fitness Certificate, Insurance Authorization Certificate Driving License	Ex. P1 Ex. P2 Ex. P3 Ex. P4 Ex. P5
PW11	Retd. EASI Rampal	Mechanical report of car bearing no. PB01B-7678	Ex. PW11/A
PW12	SI Pardeep Kumar	Statement of complainant Mela Police proceedings Crime Detail Form Rough site plan Police rukka Proceeding under Section 173 Cr. P.C. Postmortem report of deceased Agoesh Gopalan Postmortem report of deceased Babu Postmortem report of deceased Sanjay Dead body receipt Mechanical report of accidental vehicle	Ex. PW12/A, Ex. PW12/B, Ex. PW12/C, Ex. PW12/D, Ex. PW12/E, Ex. PW12F, Ex. PW12/G, Ex. PW12/H, Ex. PW12/I, Ex. PW12/J, Ex. PW12/K.
PW13	Dr. Sudhir	Postmortem report of Sanjay	Ex. PW12/I
PW14	Dr. Maonj	Postmortem report of Babu	Ex. PW12/H

MATERIAL EVIDENCE IN BRIEF:-

7. The prosecution, in support of the present case has examined following witnesses.

PW1 HC Vikram Singh, stepped into the witness box and proved Ex. PW1/A seizure memo of truck and car.

During his cross-examination, he deposed that he did not conduct any investigation in the present case. He further stated that about five to ten persons from the public were present at the spot.

PW2 ASI Rajesh Kumar, stepped into the witness box and Ex. PW2/A FIR and endorsement Ex. PW2/B.

PW3 ASI Gurbachan Singh, stepped into the witness box and proved Seizure memo of documents of Truck (RC, Fitness Certificate, Insurance, Permit and Driving License) Ex. PW3/A, Identification memo of accused Ex. PW3/B and Arrest Form Ex. PW3/C.

During his cross-examination he deposed that at the time of identification proceedings, no person other than the accused was joined and produced before complainant Mela Singh.

PW4 Pardeep Kumar, stepped into the witness box and deposed that he is the H. R. Manager of Torest pharfa company at Baddi. On 23.10.2018, company car bearing No. PB01B-7678 was coming towards Baddi taking the official namely Vipin, Agoesh, Gopal, Babu Pelai and Sanjay Kumar at about 6-7 a.m. Near Village Kiratpur one truck bearing No. HP64-3785 was driven by driver very rash and negligent manner and due to which accident was occurred. Due to this Vipin and Agoesh were died. Babu Pilai and Sanjay Kumar were died at PGI Chandigarh. He received the dead body and Ex. PW4/A.

During his cross-c-examination he deposed that he was not present at the spot at the time of accident and that he received a telephonic call regarding the occurrence.

PW5 Rajmal, stepped into the witness box and deposed that on 23.10.2018, while he was on duty at Bartoiwala Hospital, he received a telephonic call from Baddi company informing him that his son Vipin Kumar had met with an accident near Village Kiratpur. He further stated that

his son died in the accident and that he received the dead body of his son for performing the last rites. He also proved dead body receipt Ex. PW5/A.

During cross-examination he deposed that he had not witnessed the accident as he was not present at the spot. He further stated that when he received information regarding the accident, he was present on duty.

PW6 Mahavir Parsad, stepped into the witness box and deposed that on 23.10.2018, he was present at his house, he received a telephonic call that his son-in-law Sanjay had met with an accident near Village Kiratpur. He further stated that he received the dead body of his son-in-law for performing the last rites. He also proved dead body receipt Ex. PW6/A.

During his cross-examination he deposed that the alleged accident did not take place in his presence.

PW7 Dr. Manav, stepped into the witness box (through V.C.) and proved postmortem report of Vipin Ex. PW7/A.

PW8 Ms. Sradha, stepped into the witness box and deposed that on 23.10.2018, she received a telephonic information regarding an accident involving car bearing No. PB01B-7678. She further deposed that she received the dead body of her husband from the police for performing the last rites and also proved dead body receipt Ex. PW4/A.

During his cross-examination she deposed that she did not witnessed the accident.

PW9 Tanveer, stepped into the witness box and deposed that he was working as a driver on the vehicle bearing registration No. PB01B-7678, owned by Govind Singh. On 23.10.2018, at about 5:30 a.m., he was driving the aforesaid vehicle and, while picking up the employees of the

company from Mohali, reached near village Kiratpur. While he was trying to overtake on the road, a truck bearing No. HP-64-3785 came from the opposite direction at a high speed and in a rash and negligent manner and struck his vehicle with great force. The impact was so severe that the persons sitting in the vehicle sustained serious injuries. He further deposed that he himself sustained injuries on his forehead and chest in the accident. They were taken in an ambulance for treatment to Government Hospital, Sector 6, Chandigarh. He further deposed that subsequently he came to know that all the employees sitting in the car had died due to the serious injuries sustained by them in the accident, due to which he went into shock. On 13.03.2019, he alongwith the owner of the vehicle, namely Govind Singh, appeared at Police Station, Pinjore, where the owner produced the documents of the vehicle before the police. He also proved the seizure memo of documents of vehicle bearing No. PB01B-7678 Ex. PW9/A. (Ex. P1, Insurance Ex.P2, Permit Ex. P3, and Driving License Ex. P4).

During cross-examination he deposed that he had not seen the driver of the truck at the spot and could not identify him. He had neither seen nor noted the registration number of the truck. He further deposed that he had got the hearsay version recorded.

PW10 Gurpal Singh, stepped into the witness box and deposed that on 23.10.2018 he received a telephone information by the driver of his truck bearing No. HP64-3785 that he met with an accident. He also produced the documents of vehicle i.e. Rc Ex. P1, Fitness Certificate Ex. P2, Insurance Ex. P3, Authorization Certificate Ex. P4 and Driving License Ex. P5.

During his cross-examination he deposed that he did not witness the accident.

PW11 EASI Rampal Retd., stepped into the witness box and proved Mechanical report of car bearing no. PB01B-7678 Ex. PW11/A.

PW12 SI Pardeep Kumar, stepped into the witness box and proved the documents statement of complainant Mela Ex. PW12/A, police proceedings Ex. PW12/B, Crime Detail Form Ex. PW12/C, rough site plan Ex. PW12/D, Police rukka Ex. PW12/E, proceeding under Section 173 Cr. P.C. Ex. PW12F, postmortem report of deceased Agoesh Gopalan Ex. PW12/G, postmortem report of deceased Babu Ex. PW12/H, postmortem report of deceased Sanjay Ex. PW12/I, dead body receipt Ex. PW12/J, mechanical report of accidental vehicle Ex. PW12/K.

During his cross-examination he deposed that he received the information at about 8:00 a.m.

PW13 Dr. Sudhir, stepped into the witness box (through V.C.) and proved MLR Ex. PW12/H.

PW14 Dr. Manoj Kumar, stepped into the witness box (through V.C.) and proved MLR Ex. PW12/I.

No other evidence was led. Learned APP for the State, vide separate statement, gave up witnesses namely Balwant Singh, Rupesh Mittal, Atit, Dr. Ruchi, Govind Singh, ESI Subhash and Inspector Mukesh Kumar as unnecessary.

The death report of PW/complainant Mela Singh was also tendered as Ex. PX and, in view thereof, his name was struck off from the list of witnesses, vide order dated 27.04.2022.

Learned APP further tendered medical certificate Ex. PX, gave up PWs Dr. Harshdeep Singh and Dr. Rushi Dhanda and closed the prosecution evidence, vide separate statement recorded on 22.07.2026.

STATEMENT OF ACCUSED:

8. Statement of accused person was recorded under Section 313 Cr.P.C, wherein the accused has denied all the incriminating allegations levelled against him and pleaded innocence and false implication. Although, accused opted to lead evidence in his defence, however, no evidence was led by accused in his defence and same has been closed by accused on even date, vide separate statement recorded.

APPRECIATION OF EVIDENCE AND DISCUSSION:

9. Learned APP for the State has argued that prosecution has successfully proved its case beyond reasonable doubt by proving the identity of the accused as well as the fact of rashness and negligence on the part of accused. It was contended that all the witnesses have supported the prosecution case. It was further contended that the offending vehicle was being driven by accused in a rash and negligent manner, resulting in death of four persons namely Vipin Kumar, Agoesh Gopalan, Babu Pilai and Sanjay Kumar. Learned APP for the State vehemently argued that it is a fit case for conviction of accused.

10. Per contra, learned defence counsel argued that the prosecution had failed to establish the identity of the accused as the driver of the offending vehicle and had also failed to prove rashness or negligence on his part. It was argued that none of the material witnesses had actually witnessed the accused driving the offending vehicle. Learned defence counsel further

highlighted the admissions of PW9 that he had neither seen the driver of the truck nor noted its registration number. With these submissions, he made a prayer for acquittal of the accused.

POINTS FOR DETERMINATION

11. After giving thoughtful consideration to the rival contentions of the learned APP for the State and the learned counsel for the accused as well as upon making the micro analysis of the record placed on the file, the following points for determination do come to the fore as envisaged under Section-354 (1)(b) of Cr.P.C. :-

- (i) Whether accused Dinesh was driving truck bearing registration No. HP-64-3785 in a rash or negligent manner at the relevant time so as to endanger human life or personal safety of others?
- (ii) Whether by such rash or negligent act, accused Dinesh caused hurt to PW9 Taranveer, thereby committing an offence punishable under Section 337 IPC?
- (iii) Whether by such rash or negligent act, accused Dinesh caused the deaths of deceased Vipin Kumar, Agoesh Gopalan, Babu Pilai and Sanjay Kumar, thereby committing an offence punishable under Section 304-A IPC?

REASONS FOR FINDINGS

12. Before advertng to the merits of the case, it would be apposite to notice the essential ingredients of the offences with which the accused has been charged. Section 279 IPC requires the prosecution to prove that the accused was driving a vehicle on a public way in a manner so rash or negligent as to endanger human life or to be likely to cause hurt or injury to any person. Section 337 IPC requires proof that hurt was caused to any

person by an act of the accused done rashly or negligently so as to endanger human life or the personal safety of others. Section 304-A IPC requires proof that death was caused by a rash or negligent act of the accused, such act not amounting to culpable homicide. Thus, the prosecution is required to establish the identity of the accused as the driver of the offending vehicle as well as the rash or negligent act attributable to him.

13. In the present case, the foremost issue relates to the identity of the accused as the driver of truck bearing registration No. HP-64-3785 at the relevant time. Complainant Mela Singh was projected as an eyewitness to the occurrence. As per the prosecution case, he had stated that he could identify the driver of the offending vehicle. However, Mela Singh expired during the pendency of the proceedings. His death report was tendered as Ex. PX and his name was struck off from the list of witnesses. Consequently, his alleged identification of the accused during investigation could not be tested before the Court through substantive testimony and cross-examination.

14. PW4 Pardeep Kumar was admittedly not present at the spot and had received telephonic information regarding the occurrence. Similarly, PW5 Rajmal, PW6 Mahavir Parsad and PW8 Ms. Sradha admittedly had not witnessed the accident. Their testimony may establish the subsequent receipt of information and the receipt of dead bodies, but does not establish the identity of the driver or the manner in which the truck was being driven.

15. PW9 Tanveer is the material witness in this regard, as he was himself driving the car involved in the accident. In his examination-in-chief, he attributed rash and negligent driving to the driver of truck bearing No.

HP-64-3785. However, his cross-examination, he categorically stated that he had not seen the driver of the truck at the spot and could not identify him. He further stated that he had neither seen nor noted the registration number of the truck.

16. It is also significant that the accident took place on 23.10.2018, whereas PW9 appeared before Police Station, Pinjore alongwith the owner of the vehicle only on 13.03.2019 for production of the vehicle documents. Thus, his version came on record after a considerable lapse of time. This circumstance has to be appreciated alongwith his categorical admission that he had not seen the truck driver and could not identify him. No adverse inference is being drawn merely on account of the lapse of time, particularly as PW9 had stated that he himself sustained injuries in the accident; however, the said delay assumes significance while assessing the reliability and evidentiary value of his subsequent version.

17. Further, the identification memo Ex. PW3/B also does not provide the requisite assurance to the Court. PW3 ASI Gurbachan Singh admitted that at the time of identification proceedings, no person other than the accused was joined and produced before complainant Mela Singh. Thus, the manner in which the identification proceedings were conducted does not furnish independent assurance regarding the identity of the accused, particularly when the complainant himself could not subsequently enter the witness box and his alleged identification could not be tested through cross-examination.

18. The prosecution has also failed to establish the essential ingredient of rashness or negligence beyond reasonable doubt. PW9 stated

that the truck was being driven at a high speed and in a rash and negligent manner. However, he himself admitted that he had not seen the driver and could not identify him. More importantly, there is no reliable substantive testimony of the alleged eye-witness Mela Singh before the Court, as he had expired. The remaining witnesses were not present at the spot. Therefore, the allegation of rash and negligent driving is not supported by reliable ocular evidence connecting the same specifically to the accused.

19. It is settled that mere occurrence of an accident or collision is not sufficient to establish criminal rashness or negligence. Even the expression “high speed”, by itself, does not necessarily establish rash or negligent driving. The prosecution is required to establish the particular act or omission attributable to the accused which constituted rashness or negligence and resulted in the accident. In the present case, such specific act or omission on the part of accused Dinesh has not been established by cogent and reliable evidence.

20. As regards the offence under Section 337 IPC, PW9 stated that he sustained injuries on his forehead and chest in the accident and was taken to Government Hospital, Sector-6, Chandigarh. The medical evidence may establish that PW9 sustained injuries. However, proof of injuries alone is not sufficient to establish an offence under Section 337 IPC. The prosecution was further required to prove that such hurt was caused by a rash or negligent act attributable to accused Dinesh. Since the prosecution has failed to establish beyond reasonable doubt that accused Dinesh was driving the offending truck at the relevant time or that the accident was caused by any rash or negligent act specifically attributable to him, the essential ingredients

of Section 337 IPC also remain unproved.

21. As regards Section 304-A IPC, the evidence on record may establish the unfortunate fact that four persons travelling in the car lost their lives as a consequence of the accident. However, the mere factum of death resulting from an accident does not establish the criminal liability of the accused. The prosecution must establish a direct and reliable nexus between the accused, the vehicle at the relevant time and the rash or negligent act which caused the deaths. In the present case, the said chain of circumstances remains incomplete.

22. The prosecution has also not examined any independent eyewitness who could reliably depose regarding the identity of the driver or the manner in which the truck was being driven. Though PW1 stated that several public persons had gathered at the spot, there is no evidence to establish that any such person had actually witnessed the collision. This circumstance, when considered alongwith the death of complainant Mela Singh and the categorical admissions of PW9, further adds to the doubt already emerging from the prosecution evidence.

23. The remaining witnesses are formal or corroborative witnesses and their evidence primarily relates to seizure memos, vehicle documents, medical/postmortem reports, mechanical inspection and investigation. Their testimony does not bridge the material gap regarding the identity of accused Dinesh as the driver of the offending vehicle or establish rashness or negligence specifically attributable to him.

24. It is well settled that rashness or negligence of a driver cannot be presumed merely because an accident has occurred. The prosecution is

required to prove the specific act or omission of the accused which constitutes rashness or negligence. In *Ishwar Singh v. State of Haryana*, 2000 (2) R.C.R. (Criminal) 571 (P&H), it has been observed that a driver cannot be presumed to have been rash and that rashness or negligence has to be established from the evidence on record. In the present case, the prosecution has failed to bring on record reliable evidence showing the specific act or omission of accused Dinesh which led to the accident.

25. Thus, for the reasons stated above, false implication of the accused cannot be ruled out. Neither the identity of accused has been proved nor the element of rashness or negligence has been proved by the prosecution. In a criminal trial, mere suspicion, however, strong cannot take the place of proof between what may be true and what must be true. There is inevitably a long distance to travel and whole of this distance must be covered by the prosecution by legal, reliable and unimpeachable evidence before an accused can be convicted. Such a distance has not been covered by the prosecution in the present case. It has been laid down by the Hon'ble Supreme Court of India in *Harijana Thirupala & Ors. Vs. Public Prosecutor, High Court of A.P., Hyderabad 2002 (2) Apex Court Judgments 161 (S.C.)* that an accused is presumed to be innocent unless such a presumption is rebutted by the prosecution.

26. Therefore, keeping in view of the above discussion, the prosecution has miserably failed to establish guilt of the accused beyond shadow of reasonable doubt and accused is clearly entitled for benefit of doubt. Accordingly, accused **Dinesh** is hereby acquitted of the charges framed against him. His bail bonds shall remain in force for a period of six

months to secure presence of accused in case of any appeal or revision is filed within the said period, as the case may be, as per provisions of Section 437-A of Code of Criminal Procedure. Case property, if any, be dealt with as per rules. File be consigned to record room after due compliance.

Pronounced in open Court:
20.08.2026

(Ravneet)
Judicial Magistrate First Class,
Kalka.UID-HR0549

Note: This Judgment contains 16 pages in total, each page is checked and signed by me.

(Ravneet)
Judicial Magistrate First Class,
Kalka.UID-HR0549

Manjeet Kaur