


MHJN080013612022 	Presented on : 09.12.2022 Registered on : 09.12.2022 Decided on : 06.04.2026 Duration : 03 Y 04 M 03 D
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IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
GHANSAWANGI.

(Presided over by - Chetan Jagtap)

Date of Judgment :- 06/04/2026.

S.C.C. No.284/2022.

Exh.33

Complainant	State of Maharashtra Through Ghansawangi Police Station.
Represented by	Ld. APP Shri. J. S. Dhendule.
	Versus
Accused	Vasant Marotirao Thamake, Age:- 53 Yrs, Occu:- Labour, R/o:- Laxmi Nagar, Old Pedgaon Road, Parbhani, Tq. & Dist. Parbhani.
Represented by	Ld. Advocate Shri. R. S. Deshmukh

Part B

Date of offence	01.10.2022.
Date of FIR	02.10.2022.
Date of filing Charge sheet	09.12.2022.
Date of Framing of Charges/Plea	09.01.2023.
Date of commencement of evidence	22.12.2025.

Judgment

Date on which judgment is reserved	-
Date of Judgment	06.04.2026.
Date of the sentencing order, if any.	-

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.PC.
1.	Vasant Marotirao Thamake	-	-	Sec 279, 337, 338 of IPC & Sec. 134/177 of M. V. Act.	Acquitted	-	-

Part C**LIST OF PROSECUTION / DEFENCE / COURT WITNESSES****A. Prosecution :-**

Rank	Name	Exh.	Nature of Evidence
PW-1	Nitin Shankar Natkar	17	Complainant
PW-2	Parmeshwar Raghunath Khedkar	20	Witness
PW-3	Shivaji Mohanrao Gavhane	21	Witness
PW-4	Dnyaneshwar Shamrao Chate	22	Witness
PW-5	Ranganath Raghunath Sonwane	23	Investigation officer
PW-6	Shankar Chhagan Natkar	25	Injured

B. Defence Witnesses, if any :

Rank	Name	Exh.	Nature of Evidence
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C. Court Witnesses, if any :

Rank	Name	Exh.	Nature of Evidence
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LIST OF PROSECUTION / DEFENCE / COURT EXHIBIT**A. Prosecution :**

Sr. No.	Description	Exhibit Number
1	First Information Report	18 & 19
2	Spot panchanama	24

B. Defence :

Sr. No.	Description	Exhibit Number
-	-	-

C. Court Exhibits :

Sr. No.	Description	Exhibit Number
1.	Plea	10
2	Statement of accused u/sec. 313 of Cr.P.C.	27

D. Material Objects :

Sr. No.	Material Object Number	Description
-	-	-

J U D G M E N T

(Delivered on :- 06/04/2026)

The accused person has been arraigned for the offence punishable under Sections 279, 337, 338 of the Indian Penal Code and under Section 134 of the Motor Vehicle Act punishable under section 177 of the Motor Vehicle Act.

The prosecution case in nutshell is as follow :-

2. The incident took place on the date 01/10/2020. On that day, Shankar Chhagan Natkar was proceeding on his motorcycle bearing No.MH-21-AM-6329 for the weekly Bazar of Ghansawangi. While he was proceeding and reached at Mohpuri Pati on Ghansawangi to Ambad road, at that time on ambulance bearing No.MH-22-AN-2469 came from behind and gave dash to the motorcycle of Shankar Chhagan Natkar. The said ambulance was driven by the accused person. Accused drove ambulance from his possession rashly and negligently and thereby given dash to the Shankar Chhagan Natkar and caused him simple and grievous injury. Accused person failed to secure medical attention to the Chhagan Natkar. Subsequently, complaint was lodged at Ghansawangi police station. Offence punishable under sections 279, 337, 338 of the Indian Penal Code and under Section 134 of the Motor Vehicle Act punishable under section 177 of the Motor Vehicle Act, was registered against the accused person.

3. The accused person appeared before the Court. His plea got recorded at Exhibit.10 and read over to the accused person, to which he pleaded not guilty and claimed to be tried. In support of its case, the prosecution has able to examine 06 witnesses. The statement of the accused person under section 313 of the Code of Criminal Procedure is recorded. The defence of the accused person is that of total denial.

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4. The following points emerged for my consideration and I have recorded my findings thereon for the reasons stated below :-

Sr. No.	Points	Findings
1.	Does the prosecution proves that, on date 01/10/2022, at about 04.00 pm, at Mohpuri, on Ghansawangi to Ambad road, Near Mohpuri Pati, accused drove Ambulance bearing No.MH-22-AN-2469 from his possession in a manner so rash or negligent so as to endanger the human life or to be likely to cause hurt or injury to any other person and thereby committed an offence punishable under section 279 of the Indian Penal Code ?	Negative
2.	Does the prosecution proves that on the above date and place, the accused caused hurt to Shankar Chhagan Natkar by driving above mentioned vehicle in rash and negligently so as to endanger human life or personal safety of others and therefore committed an offence punishable under section 337 of the Indian Penal Code ?	Negative
3.	Does the prosecution proves that on the above date and place, the accused caused grievous hurt to Shankar Chhagan Natkar by driving above mentioned vehicle in rash and negligently so as to endanger human life or personal safety of others and therefore committed an offence punishable under section 338 of the Indian Penal Code ?	Negative
4.	Does the prosecution proves that, on the	

above said date, time and place, after the accident, the accused person failed to secure medical attention to the Chhagan Natkar and thereby committed offence under Section 134 of the Motor Vehicle Act punishable under section 177 of the Motor Vehicle Act ?

Negative

5. What order ?

Accused is acquitted.

:- REASONS :-

As to the Points No.1 to 5 :-

5. All points are interlinked, and therefore, they are discussed together. Burden on the prosecution is to prove that - (i) accused person drove ambulance bearing No.MH-22-AN-2469 from his possession, in rash and negligent manner, (ii) accused by driving his vehicle rashly and negligently caused simple and grievous hurt to Chhagan Natkar and iii) after the accident, the accused person failed to secure medical attention to the Chhagan Natkar.

In case of **Jacob Mathew Vs. State of Punjab and others, AIR 2005 SC 3180, Hon'ble Supreme Court held that :-**

“In Criminal law, it is not the amount of damages but the amount and degree of negligence i.e. determinative of liability. To fasten liability in criminal law, the degree of negligence has to be higher than that of negligence enough to fasten liability for

damages in civil law. The essential ingredients of mens-rea cannot be excluded from consideration when the charge in a criminal Court consistent of criminal negligence. In order to hold the existence of criminal rashness or criminal negligence, it shall have to be found the rashness was of such degree as to amount to taking a hazard, knowing that the hazard was of such a degree that injury was most likely imminent. The element of criminality is introduced by accused having run risk of doing such an act with recklessness and indifference to the. Consequently. For the purpose of the criminal law there are degrees of negligence and a very high degree of negligence is required to be proved before the felony is establishment. Thus, clear distinction exists between simple lack care, incurring civil liability and from high degree of negligence which is required in criminal cases. ”

Factor of grossness of degree does assume significance while drawing distinction in negligence actionable in tort and negligence punishable as a crime. To fasten liability in criminal law, degree of negligence has to be higher. There must at least be recklessness or total disregard for possible consequent. Simple lack of care, how so ever bad the consequence are, will not constitute criminal negligence.

6. Nitin Natkar is the complainant. He deposed that Shankar Natkar (PW-6) is the father. The incident took place on Saturday. His father went for the Bazar at Ghansawangi on his motorcycle. His father stopped at Mohpuri Phata. At that time, one

ambulance came from his behind and gave dash to his father. He and Shivaji Gavhane took his father at private hospital, Ambad. Subsequently, his father was taken at Jalna hospital and thereafter at Sambhaji Nagar. His father went through the surgery on his legs, hands and on his neck. Since last one year his father could not able to walk. He lodged complaint which is at Exh.18. His supplementary statement was recorded, which is at Exh.19. He identified accused before the Court as the driver of the said ambulance.

7. His cross-examination is taken on behalf of accused person. During the same, he admits that at the time of incident he was present in his house. He further admits that he has not witnessed the accident. He further admits that when he reached at the spot, there was no any ambulance present. He further admits that as he has not witnessed the accident and therefore, he cannot state due to whose fault the said incident took place. He further admits that for the first time before the Court he see the accused person.

8. Parmeshwar Khedkar (PW-2) is one of the eye witness. He deposed that the incident took place on date 01.10.2022 at Mohpuri Phata. He alongwith Shivaji Gavhane (PW-3) were present there. Shankar Natkar (PW-6) was proceeding for Bazar. One ambulance came from behind of Shankar Natkar and gave dash to him. He alongwith Mauli Chate and Mohan Gavhane took Shankar Natkar at hospital.

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9. His cross-examination is taken on behalf of accused person. During the same, he states that he has a Saloon shop at Mohapuri phata. He admits that at the time of incident he was present into his shop. He further admits that he has not witnessed the accident.

10. Shivaji Gavhane (PW-3) is one another eye witness. He deposed that the incident took place on date 01.10.2022 at 03.20 pm at Mohpuri phata. Shankar Natkar (PW-6) was proceeding on his motorcycle. One ambulance came from the side of Parbhani and given dash to him. Accused was driving the said ambulance. Shankar Natkar was taken at Ambad and subsequently, at Jalna hospital. He identified accused person as the same before the Court.

11. His cross-examination is taken on behalf of accused person. During the same, he states that Shankar Natkar (PW-6) was proceeding towards Ghansawangi. He further states that the incident took place at the opposite side of village and on the side of Wadiramasgaon village. He admits that while proceeding towards Ghansawangi from his village, they need to proceed from the left side. He further admits that Wadiramasgaon village side is the opposite side. He further admits that his statement before the police that “the incident took place at 04.00 pm” is wrongly mentioned. He further admits that he is not sure about the driver of the said ambulance. He further admits that as police told him the name and therefore he is stating the name of the accused as

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the ambulance driver.

12. Dnyaneshwar Chate (PW-4) deposed that incident took place on date 01.10.2022 at Mohpuri phata. One ambulance gave dash to Shankar Natkar (PW-6). At the time of incident he was not present at the spot. Subsequently, he went at the spot.

13. His cross-examination is taken on behalf of accused person. During the same, he admits that he has not witnessed the alleged incident. He further admits that he cannot state who was driving the said ambulance.

14. Ranganath Sonwane (PW-5) is the investigation officer. He deposed that he received investigation of crime No.365/2022. Subsequently, he went to the spot of incident and prepared spot panchnama which is at Exh.24. He recorded statement of witnesses. He collected the medical certificate. During his investigation he found that accused drove ambulance from his possession negligently and in a speed, thereby gave dash to the motorcycle of Shankar Natkar (PW-6) causing grievous injury to him.

15. His cross-examination is taken on behalf of accused person. During the same, he admits that Shankat Natkar (PW-6) was proceeding for the weekly Bazar from Mohpuri to Ghansawangi. He further admits that Shankar Natkar (PW-6) was proceeding from wrong side of the road. He further admits that no any eye witness stated that accused was driving the ambulance

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rashly and negligently.

16. Shankar Natkar (PW-6) is the injured witness. He deposed that incident took place on Saturday between 03.00 pm to 03.30 pm prior to 04 years ago. He was proceeding towards Ambad. The incident took place in between Mohpuri phata and Ramasgaon road. From behind one ambulance came and gave dash to him. Parmeshwar Khedkar, Shivaji Gavhane and Mauli Chate took him at J.J. Hospital, Jalna. Subsequently, he was taken at Aurangad. After his discharge, police recorded his statement. He identified accused as the person who was driving the ambulance.

17. His cross-examination is taken on behalf of accused person. During the same, he admits that he cannot state the number of the ambulance. He states that his son told the name of the accused to him. He denied suggestion that on the relevant day, he was proceeding for weekly Bazar from Mohpuri to Ghansawangi.

18. Gone through the oral and documentary evidence adduced on the Court record. It needs to be seen whether accused drove ambulance from his possession rashly and negligently, thereby gave dash to the motorcycle of Shankar Natkar (PW6) causing simple and grievous injuries to him and without providing any medical assistance, he went away. The important witness is the Shankar Natkar (PW-6). On perusal of his deposition, it appears that he failed to state the specific date, month and year of the

incident. He made general statement that the incident took place prior to 04 years ago on Saturday. He stated that he was proceeding towards Ambad. But, as per the prosecution case and as deposed by other witnesses, he was proceeding for the weekly Bazar at Ghansawangi. He has made contrary statement than that of the complaint and that of the deposition of other witnesses by stating that he was proceeding towards Ambad and not towards for the weekly Bazar of the Ghansawangi.

19. He states that one ambulance came from behind and gave dash to him. From which side of the road he was proceeding and from which side of the road the said ambulance came, is not specifically explained by this witness. Sonwane (PW-5) and Gavhane (PW-3) have admitted that Shankar Natkar (PW-6) was proceeding from the wrong side of the road. Their statement shows that it was the Shankar Natkar (PW-6) who was at fault by proceeding from the wrong side of the road. Shankar Natkar (PW-6) nowhere states that in the said incident he sustained simple and grievous injuries to him. He stated that he was admitted at hospital and took the medical treatment. But, in support of the said submission no any medical certificate produced on the Court record. There is no any medical evidence in support of the prosecution submission that in the alleged incident Shankar Natkar (PW-6) sustained simple and grievous hurt.

20. Nitin Natkar (PW-1) who is the complainant, Parmeshwar Khedkat (PW-2) eye witness of the incident and

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Dnyaneshwar Chate (PW-4), another eye witness of the incident, all these witnesses have specifically admitted that they have not witnessed the alleged incident. As, these witnesses admittedly have not witnessed the incident and therefore, their deposition is not helpful to the prosecution in order to prove the alleged act committed by the accused person.

21. Shivaji Gavhane (PW-3) admitted that he is not sure about the driver of the said ambulance and as police told him the name and therefore, he is stating the name of the accused as the ambulance driver. Admission given by this witness shows that he is not sure that it was the accused who was driving the said ambulance and only on the submission of police he states his name. Having such a position, his deposition cannot be taken into consideration in order to prove the alleged act committed by the accused person.

22. Identification of the accused as the same person who was driving the ambulance at the relevant time is important aspect. Shankar Natkar (PW-6) states that his son told him the name of the accused. It is not the prosecution submission nor the witnesses stated that they knew the accused since prior to the incident. Having such a position, the investigation officer should have conducted the identification parade in order to confirm the identification of the ambulance driver. The same is not done. The same is the material defect committed by the investigation officer. There is no any documentary evidence adduced by the prosecution

in order to shows that at the relevant time accused was on duty as a driver on the said ambulance. The spot of incident shown into the spot panchnama Exh.24 is different than the spot of incident stated by the witnesses.

23. Considering the entire evidence adduced by the prosecution, it appears that witnesses failed to state the details of the incident. The evidence adduced shows that it was the Shankar Natkar (PW-6) who was proceeding from the wrong side of the road. The evidence adduced is not satisfactory enough to prove that accused drove vehicle from his possession rashly and negligently, thereby gave dash to the motorcycle of the Shankar Natkar (PW-6), causing simple and grievous injury to him and without providing any medical assistance, left the spot of incident. The evidence available on the court record does not prove guilt of accused. Hence, benefit of doubt needs to be given to the accused person. In respect to the seized ambulance bearing No.MH-22-AN-2469, is already given into the interim custody of accused, the same needs to be confirmed. Thus, I decide point no.1 to 4 into negative and in answer to point no.5, I pass the following order :-

ORDER

1. The accused is acquitted from the offences punishable under Sections 279, 337, 338 of the Indian Penal Code and under Section 134 of the Motor Vehicle Act punishable under section 177 of the Motor Vehicle Act, vide section 255 (1) of the Code of Criminal Procedure.

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2. His bail bonds stands cancelled.
3. Seized ambulance bearing No.MH-22-AN-2469 is already given into the interim custody of accused, the same is hereby confirmed.
4. Pronounced in the open Court.

Place - Ghansawangi.
Date - 06/04/2026.

(Chetan Jagtap)
Judicial Magistrate First Class,
Ghansawangi.

CERTIFICATE

I affirm that the contents of this P. D. F. file Order are same, word to word as per the original Order/Judgment.

Name of the Stenographer	G. J. Bhise
Name of Court	Judicial Magistrate First Class, Ghansawangi.
Date of Decision	06/04/2026
Judgment signed by the P. O. on	06/04/2026
Judgment uploaded on	06/04/2026

Sd/-
Stenographer Grade-3