

MHKO030036782020



Received on - 13-05-2020
Registered on - 13-05-2020
Decided on - 02-07-2026
Duration - Y. M. Ds.
06 - 01 - 19

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
KOLHAPUR, (COURT NO.5)
AT KOLHAPUR

Presided over by Archana S. Pansare

Summary Criminal Case No.2545/2020

Exh. No.33/B

(FIR No.247/2019 at Gandhinagar Police
Station, District : Kolhapur)

Prosecution	The State of Maharashtra
Represented By	Smt. S.V. Pawar , Learned APP for the State.
Accused	Abhimanyu Bhagwan Shewale Age: 25 Yrs., Occu. --- , R/o. Sawant Colony, Pulachi Shirol, Tal. Hatkanagale, Dist. Kolhapur.
Represented By	Shri. P.S. Dabhole , Learned Advocate for the accused.

Date of offence	01-12-2019
Date of FIR	04-12-2019
Date of Chargesheet	13-05-2020
Date of Plea	06-04-2022
Date of commencement of evidence	11-10-2022
Date on which judgment is reserved	29-06-2026
Date of the Judgment	02-07-2026
Date of the Sentencing Order, if any	----

Accused Details

Name of Accused	Date of Arrest - formal	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.
Abhimanyu Bhagwan Shewale	Cr.P.C. 41(1) (A) Notice	06/04/2022	Under Sections. 279, 337, 338 of the I.P.C. and 184, 3(1)/181 of M.V. Act	Acquitted	N.A.	N.A.

A. List of prosecution witnesses:

Rank	Name	Exh. Nos.	Nature of Evidence
PW1	Parshwa Sunil Khombare	9	Informant
PW2	Dipanshu Jagdish Sing	11	Eye Witness/injured
PW3	Ranjitsingh Diliprao Jadhav	14	Eye witness
PW4	Ramchandra Laxman Patil	20	Investigating Officer

A. Prosecution Exhibits :

Sr.No.	Exh. Nos.	Description.
1	10	Complaint
2	21	Order of investigation
3	22	Spot Panchanama
4	23	Map of the spot of incident
5	24 and 25	Medical certificates of injured.
6	26 and 27	Notices issued u/s 209 of M.V. Act.
7	28 and 29	Vehicle inspection certificate
8	30	Notice under Section 41-A

- J U D G M E N T -

(Delivered on 2nd July 2026)

The accused is tried for an offences punishable under sections 279, 338 of the Indian penal code, 1860 and section 184 and 3(1)/181 of the motor vehicles Act, 1988. (Hereinafter referred as the 'IPC' and 'M.V.' for sake of brevity and convenience).

The Prosecution case in short is as under :-

02. Parshwa Sunil Khombare, who is student of mechanical engineering, is an informant (P.W. 1). He has motorcycle licence and uses Shine motorcycle bearing registration No. Mh-09/CT-1674 which is owned by his father. On 01/12/2019 at about 10.25 a.m. informant alongwith his friend Dipanshu Jagdis Singh (P.W. 2) were riding towards Kolhapur by Pattan Kodoli road. Dipanshu Jagdish Singh was pillion rider. Both came at Sangawade-Wasagade Phata at that time one Ford Figo Car bearing registration No. MH-12-HN-1164 heading towards Sangawade came with high speed and gave dash to the motorcycle of informant. At that time, informant and pillion rider both falls down. Informant sustained grievous hurt to knee of left leg. Pillion rider sustained grievous hurt to thumb of left hand. The driver of alleged car drove vehicle with high speed rash and negligently. Thereafter, informant and pillion rider both admitted to the hospital for treatment.

03. The accused namely Abhimanyu Bhagwan Shevwale was driving alleged Ford Figo car rash and negligently with high speed and there by gave dash to informant's motorcycle and caused grievous hurt to them, hence informant filed present complaint at Gandhinagar Police Station on 04/12/2019 vide C.R. No. 247/2019 for the offence punishable under Section 279, 337, 338, 427 of I.P.C. and Section 184 of M.V. Act.

04. Investigation of aforesaid crime was handed over to A.P.I Shri.R.L. Patil. During the investigation, he recorded statements of the witnesses, prepared spot panchanama, collect medical certificates, issued notice to accused. He found sufficient evidence against the accused. Hence, he filed a chargesheet.

05. The accused appeared in the case and plea of the accused was recorded below Exh. 8 under Section 279, 338 of I.P.C. and Section 184, 3(1)/181 of the M.V. Act to which accused pleaded not guilty and claimed to be tried. The following points for the determination along with findings thereon and the reasons are as follows:

Sr. No.	Points	Findings
1.	Does the prosecution prove that on 01/12/2019 at about 10.25 a.m. on the road leading from Pattan Kodoli road to Kolhapur on Sangawade-Wasagade Fata the accused drove his vehicle i.e. Ford Figo Car bearing No. MH-12-HN-1164 in a manner so rash and negligent as to endanger human life or the personal safety of others and thereby committed an offence under section 279 of IPC ?	No
2.	Does the prosecution further prove that on the aforesaid date, time and place the accused caused grievous hurt by rash and negligence driving of his above said vehicle so as to endanger human life and personal safety of others and thereby committed an offence under section 338 of IPC ?	No
3.	Does the prosecution further prove that on aforesaid date, time and place accused drove his above said vehicle dangerously and thereby committed the offence punishable under section 184 of MV act ?	No
4.	Does the prosecution further prove that on	

	aforesaid date, time and place accused drove his above said vehicle without holding or possessing a valid driving licence and thereby committed the offence punishable under section 3(1)/181 of MV act ?	No
5.	What order ?	The accused is acquitted.

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06. It is the case of the prosecution that, the accused drove his vehicle i.e. Ford Figo Car bearing registration No. MH-12/HN-1164, without holding or possessing valid driving licence, in a manner so rash and negligently and gave a dash to the motorcycle of informant and thereby cause grievous injury to motorcycle rider i.e. informant and pillion rider.

07. Thereafter the prosecution closed their evidence by filing pursis at Exh.31.

08. The incriminating evidence on record pointed to the accused and his statement as per Section 313(1)(b) of the Code of the Criminal Procedure, 1973 is recorded at Exh.32. The defence of the accused as emerging from his statement and cross-examination is of total denial.

09. The prosecution in all have examined 4 witnesses and relied upon documentary evidence. On the other hand, accused did not lead any evidence.

10. Heard learned advocate for the accused and learned APP for the state. The learned APP argued that the prosecution proved charge level against the accused. She argued that considering the evidence of the prosecution witnesses cumulatively, it appeared that the accused drove his vehicle in rash and negligent manner. Hence, she prayed to

award maximum punishment. As against this learned advocate for the accused argued that prosecution failed to prove charge beyond a reasonable doubt. Further inconsistency appeared in the evidence of the prosecution witness. He argued that the prosecution failed to prove the guilt of the accused. He prayed to acquit the accused.

-: REASONS: -

As to Point Nos.1 to 4 :

11. As to all points are interconnected with each other hence, they are clubbed together for discussion.

12. In order to proved the guilty of the accused ought to have prove following essential ingredients of Section 279 and 338 of the IPC.

- a) Driving of vehicle or riding on a public road.
- b) Such a driving or riding must be so rash and negligent as to endanger human life or to be likely to cause hurt or injury to any other person.
- c) Causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others.
- d) Causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others.

13. At the outset it is necessary to mention that the words “rashly and negligently” are distinguishable and one is exclusive of the other. The same act cannot be “ rash “ as well as “negligent”. Where negligence is an essential ingredient of the offence, negligence to be established by the prosecution must be culpable or gross and the negligence is nearly based upon an error of judgment. A simple lack of

care will constitute civil liability is not enough, for liability under Criminal Law a very high degree of negligence is required to be proved. Hence, it is necessary to decide the evidence of prosecution on touchstone of the aforesaid provisions.

14. In order to prove the incident, the prosecution relied on the testimony of informant (P.W.1). Informant Parshwa Khombare at Exh. 9 deposed that, he is student of mechanical engineering at Ghodawat University. He uses motorcycle bearing registration No Mh 09/CT- 1674 which is owned by his father. It is specifically deposed that on 01/12/2019 at about 10.30 a.m. alongwith Deepanshu (P.W. 2) were riding towards Kolhapur on his above said motorcycle. When they came at Sangawade-Wasagade Phata one Ford Figo Car bearing registration No. MH-12-HL-1134 came from Sangawade and gave dash to left side of motorcycle and thereby informant and P.W. 2 who is pillion rider falls down and sustained injury to left leg and left hand respectively. Thereafter, it is specifically deposed that, on 04/12/2019 police came at hospital and recorded their statement as to incident. Informant admitted F.I.R. Exh. 10 and also identified his signature and deposed contents to be true and correct. Further, informant stated that, accused Abhimayu was driving alleged Ford Figo car. Informant identified accused before court.

15. The testimony of P.W. No. 2 Dipanshu Singh at Exh. 11 is replica of testimony of informant. He deposed in-consonance with informant. P.W. No. 2 also identified accused and specifically stated that, same person was driving alleged Ford Figo Car at the time of accident. He further stated that, accused is the only person responsible for the said accident.

16. P.W. No. 3 Ranjitsingh Jadhav is the eye witness. He deposed at Exh. 14 that, on 01/12/2019 when he was heading towards home, at that time one car with high speed gave dash to one motorcycle. Thereafter, he also gave dash to the said car on the left side from behind. He specifically stated that he has not sustained any injury in said accident. However, motorcycle rider and pillion rider sustained injuries. During cross-examination P.W. 3 deposed that, accused was not driving alleged car at the time of accident. He admitted the suggestion that one old aged person was driving the said car.

17. The investigation officer Ramchandra Patil, P.W. 4 is examined at Exh. 20. The testimony of I.O. is formal one. On 04/12/2019 he learnt news of accident at Wasagade Phata and thereafter by oral order he went at Morya Hospital, Rajarampuri to record statement of the injured. He deposed that he recorded statement of informant Khombare with prior permission of concern doctor. Thereafter, by order investigation was handed-over to concerned I.O. The said order is at Exh. 21. During investigation I.O. prepared Spot Panchanama in front of two panch witnesses which is at Exh. 22. He identified spot panchanam Exh. 22 and map Exh. 23. He further admitted contents to be true and correct and identified his signature. Hence, spot panchanama Exh. 22 and map Exh. 23 are duly proved. He further identified photos of spot which are at Artical A1, A2 and A3. Further he admitted medical certificates Exh. 24 and 25 which are also duly proved. By conducting vehicle examination he obtained vehicle Inspection Certificates which are at Exh. 28 and 29.

18. As stated above informant P.W. 1 deposed incident that, on 01/12/2019 at about 10.30 one Ford Figo Car gave dash to his motorcycle and thereby alongiwth P.W. No. 2 falls down and sustained

grievous hurt. I have gone through injury certificate Exh. 24 and 25. On perusal of these injury certificate it appears that informant sustained fracture injury which is grievous in nature to left tibia. Also P.W. 2 who is pillion rider sustained grievous injury. So far as, testimony of P.W. No. 3 is concerned, he stated that, informant and pillion rider sustained injuries due to accident.

19. In order to prove that accused drove alleged vehicle rash and negligently, prosecution must prove that accused was driving alleged vehicle so rashly and negligently as to endanger human life. Informant in his oral evidence merely deposed that, one Ford Figo Car bearing registration No. MH-12-HL-1134 gave dash to left side of his motorcycle. It is to be noted that informant as well as P.W. 2 i.e. pillion rider both have not specifically deposed that accused drove alleged car rash and negligently as to endanger human life. Further it is important to note that, as per F.I.R. Exh. 10 registration number of the alleged Ford Figo Car is MH12-HN-1164. On the contrary, informant and P.W. 2 deposed in oral evidence that alleged Ford Figo Car is bearing registration No. MH12/HL-1134. There is major contradiction in respect of the registration number of the alleged vehicle which is involved in the said offence. Further P.W. 3 who is eye witness and also riding third vehicle which gave dash to alleged car stated that he can not depose vehicle number. Also, he during examination-in-chief deposed that he can identify the person who was driving the car. Further during cross-examination he denied that accused was driving car on the date of incident. He specifically further added that one old aged person was driving the car.

20. No doubt F.I.R. Exh. 10 is proved. Further Spot Panchanama Exh. 22 is also proved. It is also proved that informant and P.W. No. 2

sustained grievous hurt. In order to prove that accused was driving rash and negligently as to endanger human life and gave dash to informant's vehicle, is not proved. It is nowhere came in the evidence of P.W. 1 and PW2 who are injured that accused drove car rashly and negligently as to endanger human life. Further on going through vehicle inspection certificate at Exh. 28 and 29, it is crystal clear that, motorcycle bearing registration No. MH-09/CT-1674 is intact and in good condition. There is no damage to the motorcycle.

21. It is not sufficient to establish the presence of the vehicle on the spot and its involvement in the incident. But the prosecution equally burden to prove that it was driven by the accused and accused was driving the said vehicle rash and negligently likely to endanger human life and personal safety of others. In this contest the evidence of the prosecution is not to the case. However, prosecution failed to prove alleged negligence of the accused. So far as Section 338 of the IPC is concerned the ingredients of rashness and negligence besides injuries are required to be proved. However, there is the absence of evidence about rashness and negligence, it follows that, this ingredient are absent.

22. Resultantly, the mere presence of the vehicle and injury certificates will not be conclusive to prove that accused was driving alleged vehicle on a relevant date, time and place and was driving the same in rash and negligent manner. The prosecution has failed to examine other witnesses from the spot except evidence of investigating officer, there is no direct evidence to draw the inference that because of the fault of the accused accident took place. Further, as per prosecution the accident was occurred on 01/12/2019 and complainant and injured were admitted to the hospital on the same day. But the F.I.R. is lodged on 04/12/2019 i.e. after four days of happening of incident. Further,

though the injured were admitted to hospital the hospital has not informed to concern police station. So also, it is not case of the prosecution that whether injured were unconscious or not in condition to gave complaint. The delay is neither explained by I.O. nor informant. Hence, this create doubt on prosecution case. Considering aforesaid discussions, **I answered to Point nos.1 to 4 in negative.**

As to Point No.5 :

23. Considering all the aforesaid aspects the available evidence is not sufficient to positively to hold that accused without considering situation on the road drove his vehicle either in dangerous or rash or negligent manner and due to his rashness or negligence the incident has taken place. Similarly, there is no evidence in respect of the actual speed of the vehicle at the time of the incident. Concluding the judgment in ambience of the peculiar facts of the case I am to states that the prosecution failed to prove the guilt of the accused beyond a reasonable doubt, therefore it would be appropriate to acquit the accused. However, in the present case the prosecution has failed to establish alleged negligence and the accused is entitled to acquittal. Therefore, the complainant is not entitled to compensation in view of Section 357-A of Code of the Criminal Procedure, 1973. Furthermore, during the investigation the investigating officer had not seized any muddemal. Hence, no order in respect of muddemal. With this finding, I pass following order,

– ORDER –

1. The accused namely **Abhimanyu Bahgwan Shewale** is hereby acquitted for an offences punishable under Sections 279, 338 of the Indian Penal Code, 1860 and Section 184 and 3(1)/181 of

Motor Vehicles Act vide Section 255(1) of the Code of Criminal Procedure, 1973.

2. The bail bond of the accused stand cancelled and surety is discharged.
3. The accused is directed to furnish bail bonds of Rs.15,000/- along with surety in the like amount as per Section 437-A of the Code of Criminal Procedure, 1973. The bail bonds shall be in force upto six months unless otherwise directed.
4. The copy of this judgment be sent to The District Magistrate, Kolhapur (as per the directions given by Hon'ble Bombay High Court in Ranjana Shantilala Suryavanshi vs. Jaiprakash Tulsiram Gupta in Criminal Application No.380 of 1990 in Criminal Appeal (ST) No.390 of 2019 DOD 16/07/2020).

(Dictated and Pronounced in open Court).

Date: 02-07-2026.
Kolhapur.

Archana S. Pansare
Judicial Magistrate First Class
(Court No.5) Kolhapur.