

MHMM140020832020	Date of filing : 17 10 2020
	Date of : 17 10 2020
	Registration
	Decided on : 15 06 2026
	Period : Y M D
	05 07 29

Part A

Exh.	
<u>IN THE COURT OF THE ADDL. CHIEF JUDICIAL MAGISTRATE,</u> <u>4TH COURT, GIRGAON, MUMBAI.</u> (PRESIDED OVER BY S. S. PARAVE)	
Details of FIR/ Crime and Police Station	Crime No. 259/2019 (Police Station Tardeo)
Case No.	Criminal Case no. 400889/PS/2020 MHMM14-002083-2020
Complainant/ Prosecution	State of Maharashtra through P.I. Police Station Tardeo
Represented by	APP Smt. Maya Khairnar
Accused	Dakshit Dashrath Sable Age – 32 yrs., Occ.- Driver, Res:- Room No.173, New Afroz Road, Tulsiwadi, Tardeo, Mumbai.
Represented by	Adv. Shri K. N. More

Part B

Date of offence	23.10.2019
Date of FIR	24.10.2019
Date of Charge sheet /complaint	17.10.2020
Date of commencement of evidence	15.06.2025
Date on which judgment is reserved	15.06.2026
Date of the Judgment	15.06.2026
Date of the Sentencing Order, if any	-----

Accused Details

Rank of the accused	Name of accused	Date of Arrest	Date of Release on bail	Offence charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention undergone during Trial for purpose of Section 428 Cr.P.C.
1.	Dakshit Dashrath Sable	24.10.2019	24.10.2019	Section 279, 338 of the Indian Penal Code r/w. Sec. 134(a) and (b) of the Motor Vehicle Act	Acquitted	---	-----

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

RANK	NAME	EXHIBIT	NATURE OF EVIDENCE
PW 1	Rajesh Bhaskar Kale	Exh. 5	Informant
PW 2	Hitesh Suresh Pawar	Exh.5A	Witness
PW 3	Raju Iftikar Shaikh	Exh.10	Panch
PW 4	Supriya Kiran Nate	Exh.12	Investigating Officer
PW 5	Avinash Arvind Shelke	Exh.13	2 nd Investigating Officer
PW 6	Dr. Shrikant Khade	Exh.19	Medical Officer

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution :

Sr. No.	EXHIBIT NUMBER	DESCRIPTION
1.	Exhibit 6/PW 1	First information report (FIR)
2.	Exhibit 11/PW 2	Spot Panchanama
3.	Exhibit 20/PW 6	Injury Certificate

J U D G M E N T **(Delivered on 15/06/2026)**

1. The accused is facing trial for the offences punishable Under Sections 279, 338 of the Indian Penal Code read with section 134(a) and 134(b) of the Motor Vehicle Act.

2. **The case of the prosecution is as under :**

On 24.10.2019, the informant namely Shri Rajesh Bhaskar Kale lodged report before the police of Tardeo Police Station alleging that, on 23.10.2019 at about 03:30 p.m. he was proceeding by walk towards Mahalaxmi Station from the Racecourse by K.K.Road. He was

walking just near the footpath situated on the right side of the road. At that time, one black and yellow colour taxi bearing No. MH-01-CJ-4912 came from his backside and took U turn. However, instead of going ahead the taxi driver took it in backward direction and gave dash to him. Due to that he fell down. The wheel of the taxi was ran over his right leg. Thereafter, the taxi driver instead of giving him medical treatment, left the place. At that time, he again ran over his right leg. During the incident, he sustained grievous injury.

3. On the basis of said report, Tardeo police registered the C.R. No.259/2019 against accused for the offences punishable under sections 279, 338 of the Indian Penal Code read with section 134(a) and 134(b) of the Motor Vehicle Act. After the investigation, chargesheet is came to be submitted against accused for the commission of aforementioned offences.

4. My Ld. Predecessor explained the particulars (Exh.5) of the offence punishable under sections 279, 338 of the Indian Penal Code read with section 134(a) and 134(b) of the Motor Vehicle Act to the accused. The accused pleaded not guilty and claimed to be tried. His defence is of total denial and false implication.

5. The points for determination alongwith my findings thereon are as under :-

Sr.
Nos

Points

Findings

1. Does the prosecution prove that the accused

- drove his motor vehicle on a public way in a manner so rash or negligent as to endanger human life or personal safety of others? ... **In the negative**
2. Does the prosecution prove that the accused caused grievous hurt to the informant by doing rash or negligent act as to endanger human life or personal safety of others? ... **In the negative**
3. Does the prosecution prove that the accused failed to provide medical aid to the informant and also did not give intimation of the incident to the police? ... **In the negative**
4. What order ? **As per final order**

REASONS

As to Point No. 1:

6. The informant states in his evidence that on 23.10.2019 at about 03.00 p.m. he was proceeding by walk towards Mahalaxmi Station from the Race course. One taxi bearing No. MH-4912 came from backside in reverse direction and dashed to him. He further states that due to dash he fell down and the wheel of the taxi ran over his right leg. While leaving the place, the taxi driver again ran the taxi over his right leg. When he was admitted in the Sion hospital for medical treatment, police recorded his report (Exh.6).

7. Raju Shaikh P.W. 3 (Exh.10) who is one of the taxi driver

plying his taxi from Mahalaxmi Station to Hajiali on sharing basis, states in his evidence that on 23.10.2019, he visited the spot of incident alongwith an officer. The said officer informed about the accident and also shown the spot of incident. Thereafter, spot panchanama Exh. 11 was carried out. The spot of incident was near BEST's Poll No.16.

8. Dr. Khade PW 6 (Exh.19) states that on 23.10.2019 he was attached to Sion Hospital. On 24.10.2019 at about 04.07 a.m. the injured was brought to the Sion Hospital by his relatives. They gave history of dash by taxi on 23.10.2019 in Mahalaxmi area. There was swelling to the ankle of the injured. There was a fracture. The injury was caused due to blunt trauma. It was fresh and caused within 24 hours. It was grievous injury. The injured was in the hospital during the period of 24.10.2019 to 29.10.2019. On 26.10.2019, his leg was operated. His discharge card was signed by Dr. Umesh Kakade and Dr. Aditya Pawaskar. The injury certificate issued by Sion Hospital is at Exh.20.

9. The prosecution has also examined one Hitesh Pawar P.W. 2 at Exh.5 who stated to be a owner of the taxi involved in the incident. He states in his evidence that the accused was working as a Driver on his taxi bearing No. MH-01-CJ-4912. On 25.10.2019, he received phone call from Tardeo Police Station. It was informed to him that his taxi ran over the leg of one person and the driver was taken to the hospital. After inspection, police returned him his taxi.

10. API Shelke PW 5 at Exh.13 stated that API Supriya Nate PW 4 conducted investigation in the matter. After her transfer, he merely submitted the chargesheet. API Supriya Nate PW 4 states in her evidence that during the investigation she visited Sion Hospital and recorded the statement of the injured, traced the accused, recorded the statements of witnesses, conducted seizure panchanama, prepared rough sketch of the spot of incident and got conducted the mechanical inspection of the vehicle through RTO.

11. Learned APP submits that the oral evidence of the informant shows that the accused drove his taxi in reverse direction on a public way and thereby gave dash to him. There is no reason to disbelieve whatever is stated by the informant in his evidence. The oral evidence of the informant, panch witness Raju Shaikh (P.W.3), Investigating Officer Supriya Nate (P.W.4) and the spot panchanama Exh.11 shows that the alleged incident was taken place on Hajiali to Mahalaxmi Road during rush hours. The act on the part of accused of driving the taxi in reverse direction and running it over the leg of the informant itself shows that he was driving the motor vehicle in rash or negligent manner. The oral evidence of Dr. Khade - PW 6 and the injury certificate Exh.20 shows that during the incident, the informant sustained fracture on his right leg. In oral evidence of Hitesh Pawar - PW 2, owner of the taxi involved in the incident, makes it clear that at the time of incident the taxi was in the custody of the accused. In the circumstances, the prosecution has clearly established the involvement of the accused in the alleged incident.

12. On the other hand, Learned Advocate for the accused submits that the evidence of the informant nowhere made clear the manner in which the alleged incident was took place. The taxi was run over the leg of the informant. It cannot be concluded that it was driven in rash or negligent manner. He further submits that none of the prosecution witness is saying about the presence of the accused at the spot of incident. The oral evidence of the informant identifying the accused as a driver of the taxi involved in the accident, is also not believable. In such circumstances, the prosecution has failed to establish the guilt of the accused.

13. In the light of submissions made out by both the sides, I perused the evidence on record. The informant states in his evidence that when he was walking from Hajiali to Mahalaxmi Road, taxi No. MH-4912 came from his backside in reverse direction and dashed him. He further states that the wheel of the taxi was ran over on his right leg on two occasion. The alleged incident has taken place on a public way which carries heavy traffic. On such a road, no vehicle is permitted to be driven in reverse direction. The act of driving taxi in reverse direction is nothing but a clear act of negligence.

14. The oral evidence of Dr. Khade and the injury certificate Exh. 20 shows that during the incident, the informant had sustained grievous injury on his leg. The act of running over the taxi on the leg of the informant in reverse direction shows that the taxi driver was driving his taxi in rash and negligent manner. In the peculiar circumstances of the facts of the present case, no further evidence is

required regarding the manner of driving taxi to term the said act as rash and negligent act. Since the taxi was driven in reverse direction and it ran over the leg of the informant clearly shows that the driver of the taxi acted rashly or negligently. Firstly, he was not supposed to drive a taxi in reverse direction and secondly, he was supposed to take utmost care while taking it in reverse direction because while driving the motor vehicle in reverse direction, the driver has to be cautious than it being driven in forward direction. The act on the part of the driving of the taxi shows that he has not taken care while driving of the taxi on both aspects. It is clear that the driver of the taxi driven the taxi in rash or negligent manner.

15. As per case of the prosecution, the accused was driving the taxi involved in the incident. As per the prosecution, the informant identified the accused in the Court. So also Hitesh Pawar (P.W.2), owner of the taxi also confirmed in his evidence that the accused was working as a driver on his taxi. There is no reason to disbelieve evidence of Hitesh Pawar – PW 2 that the taxi No.MH-01-CJ-4912 was in the custody of the accused and he was working as a Driver on the said taxi. However, in my opinion, only on the count that the taxi was in the custody of the accused and during the relevant period he was working as a driver on it, the burden cast upon the prosecution to establish beyond reasonable doubt that at the time of incident, the accused was driving the taxi cannot be lessened. When the incident took place on broad day light and on the public way situated in Mumbai City, it cannot be said that evidence was not available to the prosecution to establish presence of the accused at the spot of incident

as a driver of the taxi involved in the accident.

16. The prosecution cited one Bakruddin Sardar Khan as eye witness of the incident, however, it failed to secure his presence. Hence, prosecution failed to establish the identity of the accused as a Driver of the taxi involved in the incident. No doubt, the informant identified as an accused as Driver of the said taxi from the witness box. However, as such identification of the accused appears to be improvement made by the informant during the course of his evidence. He stated nothing in the report Exh.6 that he had seen the accused at the time of incident while driving the taxi involved in the incident. In the circumstances, though the taxi involved in the incident was driven in rash and negligent manner, there is no sufficient or satisfactory evidence on record to conclude that the accused was driving the said taxi. In such circumstances, it is clear that the prosecution has failed to establish beyond reasonable doubt that the accused drove taxi involved in the incident in rash or negligent manner as to endanger human life or personal safety of others and caused grievous hurt to the informant. Hence, it is clear that prosecution has failed to establish point Nos. 1 and 2. Hence, I answer point Nos. 1 and 2 in the negative.

As to Point No. 3:

17. As per the case of the prosecution, the accused left the place without providing medical aid to the informant and also failed to report the incident to the nearest police station. However, as discussed above, the informant and the accused in the alleged incident is not going to establish beyond reasonable doubt. In the circumstances, it

cannot be concluded that the accused in spite of involved in the road accident, failed to provide medical aid to the informant and also failed to report the matter to the nearest police station. Hence, I answer point No. 3 in the negative.

As to point No. 4:

18. In view of negative findings to the point Nos. 1 to 3, accused will have to be acquitted of the offence punishable under sections 279, 338 of the Indian Penal Code read with section 134(a) and 134(b) of the Motor Vehicle Act. In the circumstances, I answer point No. 4 accordingly and pass following order:

:- ORDER :-

1. The accused is acquitted of the offences punishable under sections 279, 338 of the Indian Penal Code and for the offence punishable under section 134(a) and 134(b) of the Motor Vehicle Act vide Section 255(1) of the Code of Criminal Procedure.

2. His bail bonds, if any, are cancelled.

Date:- 15.06.2026

(S. S. Parave)
Addl. Chief Judicial Magistrate,
4th Court, Girgaon, Mumbai.

Dictated & typed on : 15.06.2026
Signed on : 15.06.2026

/sas