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**CNR No. MHMM-1900-9246-2012**

**Exh.9**

**IN THE COURT METROPOLITAN MAGISTRATE,  
65<sup>th</sup> COURT, ANDHERI, MUMBAI.  
(Presided over by Hashmi H.A.H.I.)  
(Judgment as per Sec. 355 of the Cr.P.C.)**

- (a) The serial number of the case; : C.C. No.3797/PS/2012
- (b) The date of commission of offence; On 08.04.2012
- (c) The name of the informant, if any; : Through PSO Oshiwara Police Station (CR No.107/2012)
- (d) The name of the accused person, his parentage and residence; : Zafar Ayub Chohan – 19 yrs  
Occupation : Nil  
R/o.:5, Sirajali Mension,  
Bhardawadi, Andheri (W),  
Mumbai.
- (e) The offence complained of or proved; : U/Sec.279,338 of the Indian Penal Code
- (f) The plea of the accused and his examination, (if any); : Accused pleaded not guilty
- (g) The final order; : Accused is acquitted
- (h) The date of such order; : 12.06.2026

**Appearance : Ld. APP. Prakash Shejal for the State  
Ld. Adv. Ms. Ankita Sharma for the accused**

**JUDGMENT**

**(Delivered on 12.06.2026)**

1. Accused has been charge-sheeted for the offences punishable U/Sec.279,338 of the Indian Penal Code (for short "IPC").

The prosecution case in short is as follows :-

The informant viz. Naeem Salim Choudhary has lodged the report in Oshiwara police station on 08.04.2012 contending therein that accused Zafar Chohan drove his Motorcar bearing no. MH-02-JP-4811 at Joyaddin Bhukari Road, Millat Nagar, Andheri (W), Mumbai in a manner so rash or negligent as to endanger human life and given dashed to Mitu Sadimanik Shaikh-8 yrs due to which he sustained injury. Thereafter, informant has lodged report against the accused. On the basis of complaint Oshiwara Police station has registered an offence bearing Crime No.107/2012. During the investigation, the Investigating Officer has recorded statement of witnesses, prepared spot panchanama as well as seizure panchanama, collected medical certificate from the hospital. After completion of investigation I.O. has submitted charge-sheet against the accused.

2. My Learned Predecessor has framed Plea against the accused vide Exh.2 and it read over and explained to accused in vernacular, to which he pleaded not guilty and claimed to be tried. His defence is of total denial and false implication.

3. There is sufficient incriminating evidence against accused, therefore statement of accused U/sec. 313 of Criminal Procedure Code recorded vide Exh.7.

4. Following points arise for my determination and I have recorded findings thereon for the reasons discussed herein after :-

| S.NO. | POINTS                                                                                                                                                                                                                                                                                                                  | FINDINGS             |
|-------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| 1     | Does prosecution prove that the accused on 08.04.2012 at 15.45 hrs., on Mohd. Joyaddin Bhukari Road, Millat Nagar, Andheri (W), Mumbai drove Motorcar bearing no. MH-02-JP-4811 on the public way in a manner so rash or negligent as to endanger human life and thereby committed the offence P/U/Sec.279 of the IPC ? | ...Not proved        |
| 2     | Does prosecution prove that on the above date, time & place, accused caused grievous hurt to Mitu Sadimanik Shaikh-8 yrs by dash by driving the motorcar in rash and negligent manner and thereby committed an offence punishable U/Sec. 338 of the IPC ?                                                               | ...Not proved        |
| 3     | What order ?                                                                                                                                                                                                                                                                                                            | Accused is acquitted |

### **REASONS**

#### **As to points No. 1 to 3:**

5. In order to prove guilt of the accused, the prosecution has examined only one witness i.e. P.W. No. 1 Ranjeet Satywan Pathare at Exh.4. Thereafter, the prosecution filed evidence closed pursis, therefore, evidence of prosecution closed by passing order below Exh.1.

6. P.W. No.1 the investigating officer Ranjeet Satywan Pathare has deposed that on 08.04.2012 he was attached to Oshiwara Police Station as a PSI. On that day, he has registered an offence bearing no. 107/2012. He has recorded the complaint as per the narration of the complainant Naeem Choudhary. FIR Exh.5 bears his signature as well as signature of informant. He has investigated the said crime. During the course of investigation, he has prepared spot panchanama in presence of panch witness. Copy of spot panchanama Exh.6 bears his signature as well as signature of panch witness. He has collected the information from RTO Andheri in respect of the vehicles involved in the crime/accident i.e. I 10 and Swift. He has filed the copy of accident report form received from the RTO Andheri in the charge-sheet. He has also collected injury certificate from Cooper Hospital. He has recorded the statement of witnesses. After completion of investigation, he has filed charge-sheet against the accused. During the cross-examination he has denied all the suggestions put-forth to him.

7. From the evidence of P.W.No.1, it appears that he has recorded the report/complaint Exh.5 as per the narration of the informant Naeem Choudhary. Admittedly, the informant Naeem Choudhary and other witnesses could not appear before the court due to not traceable. Moreover, other witnesses were also not examined by the investigating officer due to not traceable. So far as the evidence of P.W.No.1 is concerned, he has stated before the court the fact of investigation carried out by him. He has not stated or bring on record any evidence to show that at the time of incident accused was driving his motorcycle in a rash and negligent manner. The evidence of P.W.No.1 is not sufficient to held that the accused drove his motorcar in

rash and negligent manner. Considering facts and circumstances, I come to the conclusion that prosecution has not proved the case against the accused beyond all reasonable doubt, therefore, I answered points No.1 to 2 are in the negative and for answering point No.3, I pass following order :-

**ORDER**

- 1) Accused viz. Zafar Ayub Chohan is acquitted vide Section 255(1) of the Cr.P.C. for the offences punishable U/Sec.279,338 of the Indian Penal Code.
- 2) Bail bond of accused stands cancelled.
- 3) Accused is directed to furnish P.B. of Rs.15,000/- for appearance before the Hon'ble Appellate Court, in case appeal is filed against the judgment of this Court vide Section 437(A) of the Cr.P.C.
- 4) Judgment dictated & declared in an open Court.

Date. 12.06.2026

(Hashmi H.A.H.I.)  
Metropolitan Magistrate,  
65<sup>th</sup> Court, Andheri, Mumbai.

ask

Dictated &  
typed on : 12.06.2026  
Signed on : 12.06.2026