

C/S filed on : 06/03/2017  
Registered on : 06/03/2017  
Decided on : 09/06/2026  
Duration : 09 Y 03 M 03 D

Exh. 15.

**IN THE COURT OF THE JUDICIAL MAGISTRATE (F.C.)  
10TH COURT, ANDHERI, MUMBAI.  
(PRESIDED OVER BY S.G.AGRAWAL)**

**C. C. No. 480/PS/2017 (C.R.No. 127/2016)**

**(C.N.R.No. MHMM19-012388-2017)**

**J U D G M E N T**

**(u/Sec. 355 of Cr.PC.)**

- (a) The serial number of the case. : **C. C. No. 480/PS/2017.**
- (b) The date of the commission of the offence. : On 07/08/2016
- (c) The name of the Informant. : The State (Jogeshwari Police Station in C.R. No. 127/2016)
- (d) The name of the accused person and their parentage and residence; : **Kalpesh Rajeswar Kalyani.**  
Age : 29 years,  
R/o. 9/A, Room No. 24, Shivai Co. Op. Housing Society, MMRDA Colony, Matoshri Sports Club, In front of Durga Nagar, Mumbai.
- (e) The offence complained of : Under Section 279, 337, 338, 427 of IPC R/w. 134 (A) of Motor Vehicle Act.
- (f) The plea of the accused and : Accused pleaded not guilty.

their examination.

- (g) The final order : Accused is acquitted.
- (h) The date of such order : 09/06/2026
- (i) Brief statement of reasons : As recorded herein below.

Assistant Public Prosecutor : Shri. Shaikh  
The Ld. Advocate for accused : Shri. S. H. Sawant

### **JUDGMENT**

(Delivered on 09/06/2026)

The prosecution was required to prove that the accused on 07/08/2016 at 9.05 am near Akruti Building on Western Express Highway, South Bound, Jogeshwari(E), Mumbai had driven his motorcar bearing MH-42-AJ-276 and dash auto-rickshaw No. MH-02-DK-7467 driven by the informant and rickshaw No. MH-02-EF-5926 driven by Rajnath Mishra by driving the Motorcar in a manner so rash or negligent to endanger the public safety and has caused grievous hurt to the Dayanand Shetty, Chandrashekhar Suvarna, Rajnath Mishra and informant Fazal Shaikh and also ran away without giving information of accident to police or provided medical aid to the injured witnesses.

2. The accused had pleaded innocence and trial commenced. None of the witnesses except the investigating officer was examined by the prosecution. The statement of the accused u/Sec. 313 of Cr.P.C. was recorded wherein he had stuck to his defence of total denial and false implication in the case.

3. Heard the Ld. APP for the State and Ld. Advocate for accused.

4. To prove the guilt of the accused, the prosecution has examined informant Fazal Shaikh and witness Chandrashekhar Suvarna who were traveling in the rickshaw driven by informant Fazal Shaikh. It appears from the testimony of Fazal Shaikh that a car dashed his rickshaw from behind and the car driver took him to Trauma Care Hospital. Witness Chandrashekhar Suvarna also stated that the rickshaw was dashed to car from behind. However, witness Chandrashekhar Suvarna has not described the car which dashed the rickshaw as well as the driver of the car. Informant Fazal Shaikh has stated that accused Kalpesh Kalyani was a driver of the car. However, they have also not narrated any circumstances on the road. While in the cross-examination, the informant has admitted that the incident happened during rainy season and the pot-holes on the road were filled with rain water. He also states that he was not aware of the number of the car driven by accused. He states that he never informed the police about the number of the car driven by the accused. Therefore, it appears that his statement that the driver of the car took him to hospital is not convincing. In absence of the details of the car and its driver which dashed the informant's rickshaw and also in absence of the circumstances on the road, their testimonies do not help in proving the guilt of the accused who is charged in this case.

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5. The investigating officer has stated that the Motorcar bearing No. MH-43-AJ-276 was involved in accident but he did not search for its driver. He also stated that as accused su-moto appeared at police

station, he arrested him. He also stated he couldn't find any eye witness to the incident.

6. The defences admitted the injury certificates at Exh. 08 to 11 and the accident report form of the car involved in the accident and the rickshaw of informant bearing No. MH-02-DK-7467. As per the case of prosecution another rickshaw No. MH-02-EF-5926 was also involved in the accident and it was driven by Rajnath Mishra. The investigating officer has not got the rickshaw No. MH-02-EF-5926 inspected through RTO for inquiry of any mechanical defect. The spot panchanama Exh. 07 has reference of rickshaw No. MH-02-EF-5926. The injury report of Rajnath Mishra is unrecord. However, in absence of the inspection report of rickshaw No. MH-02-EF-5926 and evidence of Rajnath Mishra, the circumstances prevailing on the road at the time of accident cannot be ascertained. Mechanical defect in the rickshaw No. MH-02-EF-5926 can be a possible reason for accident. The testimony of informant as well as witness and investigating officer nowhere disclosed that what was the position of rickshaw No. MH-02-EF-5926 and how did its driver Rajnath Mishra sustained injury. It cannot be ascertained whether the car hit informant's rickshaw directly as a result of negligent driving of its driver or whether the hitting to the rickshaw was the effect of any other circumstances on the road. Therefore, there is no cogent and convincing evidence on record to establish the guilt of accused. Therefore, the accused is entitled to be acquitted. In the result, I proceed to pass following order:



**ORDER**

i Accused Kalpesh Rajeswar Kalyani is acquitted of the offences punishable under Section 279, 337, 338, 427 of the IPC R/w. Section 134 (A) of Motor Vehicle Act vide section 255 (1) of the Code of Criminal Procedure.

ii Bail bonds of the accused stands cancelled.

iii He shall furnish bond of Rs.10,000/- under section 437(A) of the Code of Criminal Procedure.

(S. G. Agrawal)  
Judicial Magistrate (F.C.)  
10th Court, Andheri, Mumbai.

**Date: 09/06/2026.**

Dictated on : 09/06/2026.  
Transcribed on : 09/06/2026.  
Signed on : 09/06/2026.