



Presented on : 02 01 2023
Registered on : 02 01 2023
Decided on : 14 07 2026
Duration : 03 06 12
Yrs. Ms. Ds.

CNR No. MHSI09-000002-2023

Summary Criminal Case No.1/2023

Below Exhibit No. 6

	<u>In the Court of</u> <u>Judicial Magistrate First Class, Deogad</u> (Presided over by Shrikant S.Pachandi) (Date of Judgment 14/07/2026)
	Details of FIR/Crime No :- 19/2022 Crime :- Offence Punishable u/s.304(A), 279 338 of the Indian Penal Code and u/s.184, 39/56/192, 190(2) of the Motor Vehicle Act Police Station :- Vijaydurg
Prosecution	State of Maharashtra Through Police Station Officer, Police Station Vijaydurg, Tal. Deogad, Dist. Sindhudurg
Represented by	Learned APP for the State Shri.M.G. Kaldade
Accused	Shailesh Bhagwan Kanade Age- 35 years, Occupation – Agriculture and Labourer R/o- Nadan, Kanadewadi, Tal. Deogad
Represented by	Learned Adv. Smt.S.S.Kalekar

Part B**(Para 44 (ii) of Chapter VI of Criminal Manual)**

Date of offence	20/10/2022
Date of FIR	20/10/2022
Date of Chargesheet / Complaint	02/01/2023
Date of Framing of Plea	02/01/2023
Date of commencement of evidence	19/03/2024
Date on which judgment is reserved	14/07/2026
Date of the judgment	14/07/2026
Date of the Sentencing Order, if any	Nil

Accused Details

Ran k of the Acc used	Name of Accused	Date of Arre st	Date of Rele ase on Bail	Offences charged with	Whether acquitted or convicted	Sent ence Impo sed	Period of Detenti on Underg -one during Trial for purpose of Section 428, Cr.P.C
1.	Shailesh Bhagwan Kanade	Nil	02/ 01/ 2023	Section 304(A), 279, 338 I.P.C. and u/s.184, 39/56/ 192, 190(2) M.V. Act.	Acquitted	Nil	Nil

Part C
(Para 44 (iii) of Chapter VI of Criminal Manual)

LIST OF PROSECUTION/ DEFENCE /COURT WITNESSES

A. Prosecution :

Rank	Name	Nature of Evidence
1.	Santosh Bhikaji Gavkar	Informant
2.	Sanjay Raghunath Gavkar	Panch
3.	Pravin Gangadhar Gavkar	Witness
4.	Santosh Bapu Galole	Investigation Officer
5.	Suryakant Bhikaji Raghav	Eye Witness
6.	Vijay Kumar Gangaram Allamwar	R.T.O. Inspector

B. Defence Witnesses, if any :

Rank	Name	Nature of Evidence
Nil.	Nil	Nil

C. Court Witnesses, if any :

Rank	Name	Nature of Evidence
Nil	Nil	Nil

LIST OF PROSECUTION / DEFENCE /COURT EXHIBITS

A. Prosecution :

Sr. No.	Exhibit Number	Description
1.	PW-1, Exh. 13	First Information Report
2.	PW-2, Exh. 14	Panchanama
3.	Exh.18 and 19	Inquest Panchanama and Post-mortem Report
4.	Exh.23	Advance Death Certificate
5.	PW-6, Exh.24	Letter
6.	PW-6, Exh.25 and 26	Certificate

B. Defence :

Sr. No.	Exhibit Number	Description
1.	Nil	Nil

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
1.	Nil	Nil

D. Material Objects:

Sr. No.	Material Object Number	Description
1.	Nil	Nil

J U D G M E N T

(Delivered on this 14/07/2026)

Accused stand prosecuted for the offence punishable under Section 304(A), 279, 338 of the Indian Penal Code and u/s.184, 39/56/192, 190(2) of the Motor Vehicle Act.

The factual matrix of the prosecution case is as under-

2. The prosecution's case is founded on a fatal motor vehicle accident that occurred on October 20, 2022, between 6:00 PM and 7:00 PM, near Pural Kondama Titha on the Padel-Devgad public road. According to the state, the accused, Shailesh Bhagavan Kanade, was driving a red Tata Sumo Registration No. MH-06-W-6349 from Padel towards Devgad at a high rate of speed, in a rash and negligent manner that endangered public safety. It is further alleged that the vehicle was being operated

without valid registration or a valid P.U.C. certificate. While traversing the stretch of road, the accused drove onto the wrong side of the highway and collided head-on with an oncoming Hero Passion motorcycle Registration No. MH-08-AM-5098 driven by Dinesh Bhikaji Gavkar. The violent impact threw the motorcycle off the road and inflicted severe, grievous injuries upon the rider. The victim was rushed to the Padel Primary Health Center and subsequently moved to the Devgad Government Hospital, where he ultimately succumbed to his injuries.

3. Following the victim's death, his brother, Santosh Bhikaji Gavkar, lodged the First Information Report at the Vijaydurg Police Station, which led to the registration of the criminal case No.19/2022 for the offences u/s.304(A), 279, 338 of the Indian Penal Code and u/s.184, 56/39/192, 190(2) of the Motor Vehicle Act.

4. The investigation is handed over to P.H.C Shri.S.B.Galole. In the course of investigation he prepared spot panchnama, issued letter to the Medical officer for conducting postmortem of deceased and obtained postmortem report of deceased, prepared inquest panchanama, obtained advance death certificate, obtained documents of the vehicles, issued letter to the Deputy Regional Transport Office for inspection of vehicles and obtained inspection reports of the vehicles, taken photographs, obtained certificate u/s.65-B of the Indian Evidence Act, obtained death certificate and after completion of

investigation filed the charge sheet/complaint against the accused.

5. In the response of summons issued to accused, he appeared in the court. In the compliance of section 207 of Code of Criminal Procedure copy of police papers is supplied to the accused. Then my learned Predecessor framed plea against accused for the offence punishable under section u/s.304(A), 279, 338 of the Indian Penal Code and u/s.184, 39/56/192, 190(2) of the Motor Vehicle Act. The plea read over and explained to the accused in vernacular. The accused not pleaded guilty, hence the trial.

6. To substantiate the charge against accused prosecution have examined total six witnesses and kept their reliance on documentary evidence prescribed in annexure attached along with.

7. After completion of prosecution evidence the incriminating circumstances brought on record were pointed out to the accused and his statements under section 313 of Criminal Procedure Code were recorded. The accused have taken the defence of total denial and false implication.

8. Heard learned APP Shri.M.G.Kaldate for the State and learned Advocate Smt.S.S.Kalekar for accused. Ld. APP in support of his argument relied upon following citation.

1) Ravi Kapur vs State of Rajasthan (2012 AIR (SC) 2986).

9. Where Ld. Advocate Smt. Kalekar in support of her argument relied upon following citation.

- 1) State of Karnataka vs Satish (AIR ONLINE 1996 SC 95)
- 2) State vs Suleman @ Salim Nadaf (2014 ALL MR (Cri) 619)
- 3) Deepak Digambarrao Sisode vs Roopchand Hirachand Gavane (2015 ALL MR (Cri) 2176)
- 4) Premchand vs State of Maharashtra (2023 SC 168)

10. The following points arose for my determination and I have recorded my findings thereon for the reasons stated below :-

Sr. no.	Points	Decisions
1.	Whether the prosecution proves that on 20/10/2022 between 6.00 p.m. to 7.00 p.m., at Pural, Kondama Titha, Tal. Deogad, the accused had driven TATA Sumo bearing No.MH06-W-6349 and caused death of informant's brother Dinesh Bhikaji Gaonkar by driving : above vehicle in manner so rash or negligent, which act does not amount to culpable homicide and thereby committed an offence punishable under Section 304(A) of the Indian Penal Code?	No.

2. Whether the prosecution proves that, aforementioned date, time, and place, accused had driven above said vehicle on a public way in a manner so rash or negligent as to endanger human life or to : No.
be likely to cause hurt to any other person and thereby committed an offence punishable under Section 279 of the Indian Penal Code?
3. Whether prosecution proves that aforementioned date, time, and place, accused had caused grievous hurt to the Dinesh by giving dash to him by driving above said motorcycle in rash or : No.
negligent manner as to endanger human life or personal safety of others and thereby committed an offence punishable under Section 338 of the Indian Penal Code?
4. Whether the prosecution proves that aforementioned date, time, and place, accused had driven above said vehicle at a speed or in a manner which is : No.
dangerous to the public, having regard to all the circumstances of the case including the nature, condition and use

of the place and amount of traffic and thereby committed an offence punishable under Section 184 of the Motor Vehicles Act, 1988?

5. Whether the prosecution proves that on the aforementioned date, time, and place, you, the accused, drove the said vehicle on a public road without a valid registration, thereby committing an offense punishable under Sections 39, 56, and 192 of the Motor Vehicles Act, 1988? : No.
6. Whether the prosecution proves that on the aforementioned date, time, and place, accused, drove the said vehicle in violation of the prescribed standards governing road safety, noise control, and air pollution control, thereby committing an offense punishable under Section 190(2) of the Motor Vehicles Act, 1988 ? : No.
7. What order ? : As per final order

REASONS

As to Point No.1 :-

11. To determine whether the prosecution has successfully established the charges under Sections 279, 338 and 304-A of the Indian Penal Code, the core architectural requirement is the proof of rashness or negligence that directly caused the death of the deceased, Dinesh Bhikaji Gavkar.

12. To hold an accused liable under Section 304-A of the Indian Penal Code, the prosecution must demonstrate a high degree of negligence or rashness an element of criminality that goes beyond a mere error of judgment. As established by the Hon'ble Supreme Court in Ravi Kapur vs State of Rajasthan (supra), culpability cannot be seen in a vacuum and must be evaluated alongside the physical realities of the site. The spot panchnama at Exh.14 and the cross-examinations of the investigating officer PW-4 and spot panch PW-2 establish that the accident occurred on a stretch of road featuring distinct curves, sharp slopes, and heavy daily traffic. PW-2 explicitly noted during cross-examination that night falls early in October and that vehicles climbing or negotiating these curves project direct high-beam headlights into the eyes of oncoming drivers. The possibility of the accused being temporarily blinded or losing orientation due to infrastructural constraints rather than criminal recklessness introduces a substantial element of reasonable doubt.

13. The foundational pillars of the prosecution's narrative rely heavily on interested witnesses who are close relatives of the deceased. Both PW-1 the complainant and PW-3 the cousin of the deceased candidly admitted during cross-examination that they did not see the incident take place. They arrived at the hospital or the scene long after the incident occurred. Their assertions regarding the accused driving rashly are structural hearsay and hold zero evidentiary value regarding the manner of driving.

14. The prosecution produced PW-5 Suryakant Bhikaji Raghav as a passing motorist who was present near the vicinity at approximately 6:45 P.M. Crucially, during both examination-in-chief and cross-examination, PW-5 stated that he merely heard a sound from behind, turned around, and saw the motorcyclist falling. He categorically stated "I cannot tell whose fault caused the accident, nor can I state anything about the speed of the Tata Sumo." When the sole independent witness refuses to attribute blame or verify speed, the allegation of high-speed rash driving collapses.

15. The investigating officer PW-4 admitted that he did not conduct an inquiry into basic safety protocols, such as investigating whether the deceased was wearing a protective helmet at the time of the collision. While the R.T.O. Inspector PW-6 confirmed that both vehicles were free of pre-accident mechanical defects. His cross-examination highlights that a vehicle like a Tata Sumo stops immediately upon brake application. The physical reality that the vehicle remained at the

spot, and that the accused himself helped place the injured victim on the middle seat of his own vehicle to secure medical aid at the Padel Primary Health Center as stated by PW-3, contradicts the behavioral profile of a criminally reckless driver fleeing a scene.

16. It is a settled principle of criminal jurisprudence that the prosecution must prove its case beyond all reasonable doubt. A criminal conviction cannot be sustained on the basis of conjecture, assumptions, or the mere gravity of the consequence i.e. the death of the victim. Because the prosecution has failed to produce a single eyewitness who can verify that the accused was driving with criminal rashness or negligence, and because the physical topography introduces the high probability of a pure, blameless accident, the benefit of the doubt must inevitably be extended to the accused. Therefore, the prosecution has failed to conclusively establish Point No. 1. Hence, I answer Point No.1 in the negative.

As to Point No.2 :-

17. To establish an offense under Section 279 of the Indian Penal Code, the prosecution must prove two distinct ingredients. First, that the accused was driving a vehicle on a public road, and second, that such driving was done in a rash or negligent manner so as to endanger human life or be likely to cause hurt. While the first element that the accused was operating the Tata Sumo on a public Padel-Devgad road is undisputed.

18. Regarding second element i.e. manner of driving, the prosecution's assertion that the accused was driving at an excessive speed relies on the boilerplate language of the FIR and the testimonies of PW-1 and PW-3. However, during cross-examination, both PW-1 and PW-3 admitted that they were not present at the spot when the collision occurred. Speed alone is not proof of rashness or negligence, as a vehicle may be driven fast yet with absolute control depending on road conditions. Crucially, the sole independent witness, PW-5 Suryakant Raghav, who was traveling on the same road, stated that he only heard the sound of the crash from behind and could not comment on the actual speed or the operational fault of the Tata Sumo. Furthermore, the investigating officer PW-4 admitted that the incident took place on a busy road marked by slopes and sharp curves, where night falls early in October, creating distinct visibility hazards.

19. Applying the principles laid down in Ravi Kapur vs State of Rajasthan (supra), a finding of rashness cannot be arrived at by looking at the tragic result of the accident in isolation. The circumstantial evidence indicates that the accused did not flee but instead used his own vehicle to transport the injured to the health center. In the absence of definitive proof showing that the accused acted with a deliberate or reckless disregard for the consequences, a charge of rash driving under Section 279 of the Indian Penal Code cannot be sustained. Therefore, Point No. 2 must be answered in the negative.

As to Point No.3 :-

20. Section 338 of the Indian Penal Code penalizes the act of causing grievous hurt to any person who by doing an act so rashly or negligently as to endanger human life or personal safety. The medical evidence, specifically the Inquest Panchnama Exh.19 and the Post-Mortem Report Exh. 44, establishes beyond doubt that the deceased, Dinesh Gavkar, sustained severe bodily trauma, external lacerations, and internal hemorrhaging. These injuries undoubtedly fall within the legal scope of "grievous hurt". However, the criminal liability under Section 338 of the Indian Penal Code is conditional upon the fact that the cause of such grievous hurt must be the specific rash or negligent act of the accused. The element of the immediate and direct cause must be firmly linked to the accused's blameworthy behavior.

21. As discussed under Point No. 2, the prosecution has failed to establish the foundational element of criminal rashness. The physical damage noted in the Spot Panchnama Exh. 14 such as the broken motorcycle, brake pedal and indicators found in the roadside grass proves that a severe collision occurred, but it does not automatically identify the accused as the negligent party. The defense raised a plausible doubt that the deceased, operating a motorcycle on a winding, dark road, could have lost control or contributed to the accident, a hypothesis that the investigating officer PW-4 failed to properly eliminate since he did not even check for the presence of a helmet or analyze the motorcycle's trajectory. Since the primary link of criminal negligence is

missing, the fact that the victim suffered grievous injuries and ultimately died cannot be legally imputed to a criminal act by the accused under this section. Consequently, the prosecution has failed to satisfy the statutory requirements of Section 338 of the Indian Penal Code, and Point No. 3 is answered in the negative.

As to Point No.4 :-

22. Section 184 of the Motor Vehicles Act provides for the punishment of driving a motor vehicle at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition, and use of the place where the vehicle is driven. The statutory scope of "dangerous driving" under the Motor Vehicles Act is closely aligned with the concept of rash and negligent driving under the Indian Penal Code. It requires the prosecution to prove that the driving behavior was objectively perilous to other road users under the prevailing environmental circumstances. The prosecution relies on the R.T.O. inspection report generated by PW-6, which certified that the Tata Sumo had fully functional brakes and steering, thereby eliminating mechanical failure as a defense. From this, the prosecution argues that the collision must have been the direct result of dangerous driving by the accused. However, this argument overlooks the standard of proof required in a criminal trial. The Spot Panchnama Exh.14 describes the road as being 19 feet 7 inches wide. The prosecution claims the accused drove completely onto the wrong side, but the independent witness PW-5 did not corroborate seeing the vehicle driving on the wrong side or traveling at a dangerous speed prior

to the impact. The defense cited a series of binding precedents, including Premchand vs State of Maharashtra (supra), to argue that where the topography presents inherent driving difficulties slopes and blind curves and the ocular evidence is inconclusive, the accused cannot be summarily convicted of dangerous driving based on the mere occurrence of a collision. The investigative gaps, coupled with the neutral testimony of the independent witness, mean the prosecution has not proven the high threshold of deliberate endangerment required under Section 184 of the Motor Vehicles Act. The benefit of this reasonable doubt must be given to the accused. Accordingly, Point No. 4 is answered in the negative.

As to Points No.5 and 6 :-

23. To sustain a conviction under Sections 39, 56, and 190(2), punishable under Section 192 of the Motor Vehicles Act, 1988, the prosecution must conclusively establish that the accused drove the Tata Sumo vehicle bearing No.MH-06-W-6349 on a public road without a valid certificate of registration, without a valid fitness certificate, and in violation of prescribed statutory pollution norms. The prosecution's case rests entirely on the mechanical assertions made in the charge sheet and the subsequent vehicle inspection conducted by the Motor Vehicle Inspector, Vijaykumar Annemwar PW-6. However, the documentation submitted to the Court reveals fundamental gaps that fail to meet the standard of proof required in a criminal trial.

24. Crucially, while the prosecution asserts that the vehicle's registration and Pollution Under Control (P.U.C.) certificates had expired at the time of the incident, it failed to produce certified extract records from the Regional Transport Office (R.T.O.) or an official emission testing report to legally substantiate these claims. The Motor Vehicle Inspector PW-6 explicitly stated in his examination-in-chief that upon performing the physical inspection, he found the Tata Sumo completely fit to drive, noting that its brakes, tires, and mechanical systems were in good working condition. No testing was conducted to prove that the vehicle exceeded the permissible noise or air pollution standards on the date of the accident. Furthermore, during cross-examination, the investigating officer, Police Naik Santosh Galole PW-4, admitted to distinct procedural lapses, including the failure to issue or verify the mandatory statutory notices required under Section 209 of the Motor Vehicles Act. In criminal jurisprudence, the burden remains squarely on the prosecution to prove every element of an offense beyond a reasonable doubt, and a conviction cannot be sustained on mere administrative assumptions or secondary notation in a police report. Because the prosecution failed to place primary, certified documentary evidence on record to prove the lack of registration, lack of fitness, or an actual breach of pollution standards, the benefit of the doubt must be extended to the accused. Accordingly, Points No. 5 and 6 are answered in the negative.

As to Point No.7 :-

25. Thus, considering all reasons above, I answer 'Point No.1 to 6' in the negative and in answer 'Point No.7' pass following order.

ORDER

1. The accused Shailesh Bhagwan Kanade is acquitted for offence punishable under section u/s.304(A), 279, 338 of the Indian Penal Code and u/s.184, 39/56/192, 190(2) of the Motor Vehicle Act vide section 255(1) of the Criminal Procedure Code.
2. The bail bonds furnished by the accused is extended for further period of six months in view of Section 437-A of the Code of Criminal Procedure, 1973.

(Dictated and pronounced in open Court).

Date : 14/07/2026

(Shrikant S. Pachandi)
Judicial Magistrate, First Class,
Deogad