

MHWS080006542020



Received on : 30/06/2020

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Decided on : 16/03/2026

Duration : Ys. M. Ds.

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**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, COURT
NO. 3, RISOD, DIST.WASHIM.**

(Present: Shri. Kiran D. Lukde)

Date of Judgment : 16/03/2026

Summary Criminal Case No. 274 of 2020

Exh. No. 34

(FIR/Crime No. I-337 of 2019 of Risod Police Station, Dist.
Washim.)

Prosecution	:	State of Maharashtra, Through -Officer-in-charge of Risod Police Station, Washim. Dist. Washim.
Represented by	:	Shri. M.D.Adkine, Additional Public Prosecutor
Accused	:	Gajanan Pandirao Savadkar, Age: 38 Yrs, Occ. Driver, R/o. Vanoja, Tal. Risod, Dist. Washim.
Represented by	:	Shri. D.S.Bonde, Advocate for accused.

Part 'B'

(Para 44(ii) of Chapter VI of Criminal Manual)

Date of offence	:	18/07/2019
Date of FIR	:	27/07/2019
Date of Charge-sheet	:	30/06/2020
Date of framing of the Particular	:	03/08/2021
Date of commencement of evidence	:	11/09/2023
Date on which judgment is reserved	:	--
Date of the Judgment	:	16/03/2026
Date of Sentencing order, if any	:	--

Accused Details

Rank of the accused	Name of the accused	Date of arrest	Date of release on Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention undergone during Trial for the purpose of Sec.428 Cr.PC.
1.	Gajanan Panditrao Savadkar	Notice according to Section 41 - A Code of Criminal Procedure, Dated 29/07/2019	24/02/2021	Section 279,337 of the Indian Penal Code,1860	Acquitted	--	00

JUDGMENT

(Delivered on: 16/03/2026)

The accused is facing trial for allegedly committing offences punishable under section 279 and 337 of the Indian Penal Code (for short 'I.P.C.').

The case of prosecution in brief is as under,

2. On 18.07.2019 at about 6.15 p.m. within the limits of village Bibkheda, on Risod to Akola road, next to village Bibkheda, the accused speedily drove the ST bus bearing registration No. MH-14-BT-0667 from Risod to Akola direction, in a rash or negligent manner without taking into consideration the circumstances on the road and caused an accident of bus in which 23 passengers, the bus conductor and the accused himself were injured.

3. On the basis of information given by the informant, crime No. I-337/2019 was registered against the accused at Risod police station for offences punishable under section 279 and 337 of I.P.C. Police Head Constable, Ganesh Thorat conducted the

investigation. After investigation, the I.O. placed the chargesheet against the accused for offences punishable under section 279 and 337 of IPC.

4. My learned predecessor had framed particulars of offence against the accused at Exh. 10 for offences punishable under section 279 and 337 of the IPC. The accused pleaded not guilty and claimed to be tried. Hence, as per the provisions of section 254 of Cr.P.C., the trial was commenced.

5. In support of the case, the prosecution examined 4 witnesses as mentioned in the list provided with Part C. My learned predecessor had issued several summons to the witnesses; however, they failed to appear before the court, therefore the prosecution's evidence was closed by order below Exh.1, dated 21/04/2025. After recording the statement of the accused under section 313 of the CrPC, the prosecution moved an application below Exh.31, for issuance of a witness summons as per section 311 of the CrPC. By order below Exh.31, the witness summons were issued to witnesses, however inspite of due service and sufficient opportunity, the witnesses failed to appear before the court. Therefore, the prosecution evidence was closed by order below exh.1, dated 15/12/2025

6. For enabling the accused personally to explain the circumstances and evidence against him, he was questioned on said evidence as per section 313(1)(b) of the Code of Criminal Procedure. The accused submitted that the witnesses have deposed in order to take the amount from the insurance company. The accused did not adduce any evidence in his defence.

7. I have heard learned additional public prosecutor and learned advocate of the accused at length. In view of the case of prosecution and particulars framed against the accused, the following points arose for my determination, the findings on which for reasons, I have recorded below,

Sr.No.	<u>POINTS</u>	<u>FINDINGS</u>
1.	Whether the prosecution prove that the accused drove the ST bus bearing registration No. MH-14-BT-0667 in a manner so rash or negligent as to endanger human life or to be likely to cause hurt or injury to any other person and thereby committed an offence punishable under section 279 of Indian Penal Code ?	No
2.	Whether the prosecution prove that, the accused drove the ST bus bearing registration No.MH-14-BT-0667 so rashly or negligently so as to endanger the human life or the personal safety of others, and caused hurt to the passengers and thereby committed an offence punishable under section 337 of the Indian Penal Code ?	No
3.	What order ?	Accused is acquitted.

ARGUMENTS :

8. Learned A.P.P. submitted that evidence of the informant PW-1, PW-2, PW-3 is corroborative to each other. The all 3 witnesses have supported the prosecution case. The informant has deposed as per the content of the FIR. The ST Bus was in possession of the accused. The defence of the accused that the

steering wheel of the Bus was locked, is not probable in light of the testimony of the PW-2, who has examined the ST Bus. The defence was unable to brought on record anything from the cross-examination of the prosecution witness. All essential ingredients of the offence are satisfied. The prosecution has proved their case beyond a reasonable doubt. Hence, prayed for the conviction of the accused.

9. Per contra, the learned advocate for the accused argued that the improvements are made by the witnesses in their evidence. There are material contradictions in the evidence of witnesses. The accident occurred as the steering wheel of the Bus was locked. There was no negligence or rash act on the part of the accused. There is a delay in lodging of FIR. The delay is not properly explained by the prosecution. Independent witness, injured witness, doctor have not been examined. Witness No. 4 Spot Panch turned hostile. The I.O. has not been examined. Prosecution has not proved the case beyond a reasonable doubt. The false case has been filed against the accused for the claim of the vehicle's insurance money. Hence, prayed for the acquittal of the accused.

REASONS FOR THE FINDINGS

10. The accused has not denied the occurrence of the incident and the fact that the he was driving the bus. The accused also admitted the medical certificate of the injured. The only defence of the accused is that, the accident did not occurred due to his rash or negligent act but due to the mechanical failure in the bus. Further accused defence is that the prosecution has filed the

present case against him to claim the insurance amount of the insured Bus.

AS TO POINT NO. 1 (Rash or Negligent act)

11. It is the case of the prosecution that, on 18.07.2019 at about 6.15 p.m., within the limits of village Bibkheda, on Risod to Akola road, next to village Bibkheda, the accused speedily drove the ST bus bearing registration No. MH-14-BT-0667 from Risod to Akola in a rash and negligent manner without taking into consideration the circumstances on the road and caused an accident of bus in which 23 passengers, the conductor and the accused himself were injured.

12. In this regard, it has come in the evidence of Prashant P.W. 1 (Informant) at Exh.20 that, He was working as a traffic inspector at the Risod bus depot in the year 2019. The accused was working as a driver at the Risod Bus Depot. The incident took place on 18.07.2021, at a place next to the Bibkhed village at about 6.15 pm. He got information about the incident from A.N. Pathan, who is an employee at the Risod bus depot. He got information from Pathan that, the bus No. 0667 had fallen into a pit and there were 23 passengers in it, out of which 13 were seriously injured, and the rest were slightly injured. The accused Gajanan was the driver, and the conductor Sumedh Ramakrishna Khandare was on duty on the bus No.0667. After getting information about the incident, He took another bus from the bus depot and went to the accident spot in Bibkhed. He further deposed that, at the said incident spot, the bus had fallen into a pit. The driver and conductor were standing at the spot. The injured passengers were sitting. He further deposed that,

when the driver was asked about the incident, he said that the accident occurred as the bus's steering was locked. After that, the bus was technically inspected. The technical report disclosed that there was no technical fault in the bus. The accident was due to the negligence of the accused. After receiving the technical report of the bus, He gave a report at the Police Station Risod on 27.07.2019. The witness was shown his statement and FIR, he identified his signature on it and affirmed the contents of it to be true and correct.

13. Prashant (PW 1) was cross-examined by the advocate for accused in which he admitted that, construction of road work was going on in front of and the behind of the village Bibkheda on the day of the incident. The road was uneven and having pits, and therefore vehicles have to be driven slowly. He went to the spot of the incident after the incident has occurred. He stated that the delay in filing the FIR was due to pending technical inspection of the vehicle. He admitted that he cannot state the exact four boundaries of the place of the incident. He stated that, the bus was inspected before being driven out of the bus depot. He further admitted that, he has not given a bus fitness report to the police about the bus being fit for operation on that day. He denied all adverse suggestions put by the advocate for the accused. He denied that the case is filed in order to receive the insurance amount from the insurance company.

14. Shailesh (PW 2) was examined at Exh. 24 who deposed that, he know the accused. The accused is a driver in Risod bus Depot. On the day of the incident, he had the charge of Assistant

Workshop Superintendent of Risod Bus Depot. The said incident occurred in the year 2019. On the day of the incident, a bus No. MH 14 BT 0667 met with an accident at Bibkheda. The said bus was brought to the depot for inspection. He inspected the said bus. The front part of the said bus was dented, the springs were broken, and the pipelines were broken. The said damage was caused by the accident of the bus. After the accident, the bus was technically unfit, it was technically fit before the accident. He had inspected the said bus and given a technical report. The said accident was due to the negligence of the accused. The technical report O.W.No. 335, dated 24.07.2019, was shown to him, it was given in his own handwriting. It bears his signature and seal as Assistant Workshop Superintendent. The content of it is true and correct and he has signed it.

15. In his cross-examination by a learned advocate for the accused, he admitted that he himself has not inspected the bus before leaving the depot, his assistant mechanic has examined the bus. He admitted that he does not personally know about the incident or the accident. At the time of recording of his statement by police, he told police that “he was working at Risod as an in-charger in the year 2019, he was in-charge of the Assistant Superintendent of Risod Bus Depot, the said incident occurred in the year 2019. On the day of the incident, MH. 14 BT 0667 bus had an accident at Village Bibkheda and the said bus was in their bus depot for inspection, the front part of the said bus was crushed, the spring was broken, the pipeline was broken, the damage was caused by the accident of the bus, and the bus was mechanically damaged due to the accident, it was good before the accident.”

However, said facts are is not in his statement before the police and he cannot assign any reason for the omission of the same. He admitted that he has not given a report to the police about the good condition of the bus before the incident. He denied that, he prepared a false inspection report on the instructions of his superiors in order to get compensation for the damage to the bus.

16. Ramesh (PW 3) was examined as a panch witness at Exh. 26, who deposed that, on 28/07/2023, the police called him for a panchnama on Akola road next to Bibikheda village. The panchnama was about an accident. The panchnama, was shown to him he affirms the contents of which are true and correct and also bears his signature on it.

17. In his cross-examination by a learned advocate for the accused, he admitted that his duty is from 9.00 am to 5.30 pm. He was working as an assistant traffic inspector in Risod depot. The police had not given him any notice for the panchnama. He was unable to state the time of panchnama. He also admitted that, there were a lot of people at the spot of the incident. He stated that, there was a well to the east of the spot, a tarmac road to the west, Risod to Malegaon road to the north and Risod to Malegaon road to the south. He stated that the police had read out the panchnama to him and also told him that the bus involved in the accident had fallen at this spot.

18. Gorakhnath (PW 4) was examined as a panch witness at Exh. 28, however he did not support the prosecution. He denied that the spot panchnama was prepared in his presence. His signature was taken on the panchnama. He was shown the

panchnama in cross-examination by a learned APP. He admitted his signature on it but deposed that he does not know about its contents.

19. In view of the aforesaid evidence, I am guided by the Judgment of Hon'ble Supreme Court in the case of **Mohammed Aynuddin @ Miyam v. State of Andhra Pradesh reported in 2000 SCC OnLine SC 1077**, wherein Hon'ble Supreme Court has held in paragraph number 8 and 9 that;

'The principle of res ipsa loquitur is only a rule of evidence to determine the onus of proof in actions relating to negligence. The said principle has application only when the nature of the accident and the attending circumstances would reasonably lead to the belief that in the absence of negligence, the accident would not have occurred and that the thing which caused injury is shown to have been under the management and control of the alleged wrongdoer.

A rash act is primarily an overhasty act. It is opposed to a deliberate act. Still, a rash act can be a deliberate act in the sense that it was done without due care and caution. Culpable rashness lies in running the risk of doing an act with recklessness and with indifference as to the consequences. Criminal negligence is the failure to exercise duty with reasonable and proper care and precaution guarding against injury to the public generally or to any individual in particular. It is the

imperative duty of the driver of a vehicle to adopt such reasonable and proper care and precaution.”

20. In the light of the ratio laid down by the Hon'ble Supreme Court in **Mohammed** (Supra), the evidence of prosecution on record needs to be scrutinized. It is also necessary to consider as to whether the alleged act of the accused falls under the ingredients of offences for which the accused is tried. Offences punishable under section 279 and 337 of Indian Penal Code are alleged to have been committed by the accused.

21. An offence punishable under section 279 of Indian Penal Code provides punishment for rash or negligent driving or riding which would endanger in human life or which is likely to cause hurt or injury to any other person. For attracting offence punishable under section 279 of Indian Penal Code, following ingredients are necessary.

- a. Driving of a vehicle or riding on a public way.
- b. Such driving or riding must be so rash or negligent as to endanger human life or to be likely to cause hurt or injury to any other person.

22. Informant Prashant (P.W.1) and Shailesh (P.W.2) are important witnesses. After going through their evidence, it is seen that, they both are not the eye witness to the incident. The PW.1 Prashant in his chief examination stated that, he received the information about the incident form Mr. A.N Pathan. Then, after he has proceeded to the spot of the incident. It is pertinent to note that the prosecution has failed to secure the presence of Mr A.N.

Pathan for his evidence before the court. The PW. 1 Prashant in his chief examination stated that the bus was fallen into pits. Further in his cross-examination, he also admitted the fact that, on the day of the incident, the construction of road work was going on in front of and behind the village Bibkheda and the road was uneven and having pits and therefore vehicles have to be driven slowly. He nowhere state about the fact of negligence or rash act of the accused. For the act of the accused to be a negligent or rash, there must be something in the evidence of the witness about overspeed, rash driving, etc. However, in the present case, the informant PW.1 Prashant has not stated how the act of the accused amounts to a negligent act or rash act.

23. The PW.2 is a person who has inspected the bus after the accident. He deposed in his chief examination that the bus was in fit condition before the incident however, he, in cross-examination, admitted that he has not submitted the documents relating to that to the police at the time of investigation and also admitted that he him self has not inspected the bus before its departure. He further in his examination chief stated that the front part of the bus was dented, the springs were broken, the pipe lines were broken, and the said damage was caused by the accident. However, here it is pertinent to note that he has not stated the said facts in his statement under section 161 CrPC before the police, and he also cannot state the reason why the police has not recorded the said fact in his statement under section 161 CrPC. The said facts are the additional facts deposed by the witness in his chief examination before the court. Which are material one, therefore they can not be taken into consideration as the IO in the

present case has not been examined and the witness himself failed to state the reason for the omission of the same. He further admitted, in his cross-examination, that he has not seen the incident by himself, he just has examined the bus and given the report.

24. The PW.3 and 4 are the panch to the spot panchnama. The PW.4 Gorakhnath has not supported the case of prosecution. The PW. 3 Ramesh, in his chief examination, deposed that the police has prepared the panchnama in his presence and also read over to him, and after that, he has signed it. In cross-examination, he only admitted that, he cannot state at what time he reached the spot for the panchnam. The failure on the part of the panch to state the time, cannot be fatal to his testimony.

25. According to section 134 r.w section 68 of Indian Evidence Act. No particular number of witness is required to prove any fact and the document which is attested can be proved by examining atleast one attesting witness. In the present case, the PW.4 Gorakhnath has not supported the prosecution case. The PW.3 Ramesh has stood firm. Therefore, in light of evidence of the PW.3, the spot panchnama is clearly proved.

26. All the above evidence of the prosecution witnesses discussed aforesaid on the point as to how the alleged accident occurred. Whether the act of the accused was negligent or rash, it shows that, none of the witness was the eye witness to the incident the spot panchnama has been proved however, the occurrence of the accident is an admitted fact on the part of the accused. The only defence of the accused is that the accident was not caused by

his negligent or rash act, but because the steering of the bus was locked, and due to which the above said accident occurred. Here it is pertinent to note that the prosecution has failed to secure the presence of the material witness i.e the conductor, the injured person in the bus, independent witness present at the spot of incident. The PW.3 in his cross-examination also admitted that at the spot of the incident several persons were present. The PW 1 and 2 are the employees of the Risod bus depot, in the absence of an independent witness, their only testimony cannot be relied upon. Moreover, they are not eyewitnesses to the incident, and they also failed to state how the act of the accused was rash or negligent. Therefore, even though the prosecution has proved the spot panchnama, they are failed to prove that the act of the accused was negligent or rash.

27. The Ld. advocate for the accused also argued that, there is delay in lodging F.I.R. According to him the incident occurred on 18/07/2019 and the FIR was lodged on 27/07/2019. On other hand the prosecution in their evidence stated that the technical inspection of the bus was pending due to which the FIR was lodged in 27/07/2019. Here admittedly the FIR is lodged on 27/07/2019 and the incident is occurred on 18/07/2019. On perusal of the inspection report at Exh.25 it appears that it was issued on 24/07/2019. Therefore from the above facts it is clear that the prosecution has sufficiently explained the delay in lodging FIR.

28. It is necessary to mention that section 279 of the IPC can be invoked only if the act of the accused is negligent or rash. Rashness and negligence are not the same things. Mere negligence

cannot be construed to mean rashness. There are degrees of negligence & rashness, and in order to amount to criminal rashness or criminal negligence, one must find that the rashness has been of such a degree as to amount to taking hazard knowingly that the hazard was of such a degree that Injury was most likely to be occasioned thereby. Criminal negligence is a gross and culpable neglect, that is to say, a failure to exercise that care and failure to take that precaution which, having regard to the circumstances. In the present case, none of the witnesses have clearly deposed that, the accused was driving the vehicle in a rash or negligent manner or in excessive speed at the time of the incident. No elements or ingredients of rash or negligent driving are clearly seen from the evidence of the prosecution witnesses, which is a mandatory requirement for conviction under section 279 of the IPC. The witnesses have not stated that the accused drove the vehicle in high speed, had not taken proper care or precaution and also acted in such a manner amounting to rash or negligent manner. Thus, this material ingredient is also not proved beyond a reasonable doubt.

29. Hence, it is seen that, there is no conformity and satisfaction based on the aforesaid evidence that the accused was driving a bus in a rash or negligent manner. Considering the loopholes in the prosecution evidence, the benefit of the doubt needs to be given to the accused. The ingredients of offences punishable under section 279 of the IPC are not satisfied beyond a reasonable doubt. Hence, I answer point no.1 in the negative.

AS TO POINT NO.2 :

30. It is also the case of prosecution that, the injuries are suffered by the passengers/witnesses as a result of an accident caused by rash or negligent act of the accused. Alleged offences are punishable u/s.337 of the IPC. The ingredients of the offence punishable under section 337 of the IPC are as follows:

- a. Hurt must be caused.
- b. It must be caused by doing any act so rashly or negligently as to endanger human life, or the personal safety of others.

31. In facts of present case the injury to the one of passengers is admitted by the accused, by admitting the injury certificate at Exh.29. Here it is pertinent to note that there were 23 passengers in bus and they were injured, however the prosecution has failed to secure presence of any one of them and to examine them, moreover the doctor who has issued the injury certificates has not been examined by the prosecution. As discussed in the point No.1 the prosecution failed to prove that the act of the accused was rash or negligent beyond a reasonable doubt. For an attraction, the ingredients of the Section 337 there must be a rash or negligent act, and there must be injuries due to such act. In the present case, the negligence or rash act has not been proved. Moreover, the injured person has not been examined. Even though the accused has admitted the injury certificate of the one of the injured, it will not be fatal to his case as his defence is that the accident has occurred and the injuries are caused, however, not because of his rash or negligent act, but due to the bus accident.

32. Even if it is established by the prosecution that injuries are caused to the witnesses, still the evidence does not clarify that,

accused was responsible for causing injuries to the passengers by his rash and negligent act. Thus, there is no satisfactory evidence suggesting that the accused drove the ST bus in a rash or negligent manner. There is no doubt as to injuries, but there is doubt as to whether the accused is responsible for injuries through his alleged act of driving in a rash and negligent manner. The prosecution has therefore, failed to prove the offences beyond a reasonable doubt. Hence, I answer point No.2 in negative.

AS TO POINT NO.3 :

33. Hence, it is seen from the discussed evidence that, there is no satisfaction as to whether the accused was driving the S.T. bus in a rash or negligent manner at the time of the accident. The three witnesses, namely Prashant, Shilesh and Ramesh, were material witnesses for the prosecution however, they are not the eye witnesses, and their evidence have material loopholes discussed aforesaid, which does not prove the case of the prosecution beyond a reasonable doubt. Moreover, the elements of rashness, speed, as well as the negligence and ignoring the circumstances at the spot are not proved by the prosecution in the present case. So also, Gorakhnath (PW.4) was examined as a panch witness however, he did not support the prosecution. The evidence of the informant (PW.1) and the bus inspector (PW.2) was supportive to prosecution, and such evidence is always of a corroborative nature, and therefore, it needs to be supported with cogent and reliable evidence of the direct witnesses, which is substantive evidence. However, in the present case, there were 23 passengers, however the prosecution has failed to examine them and the conductor was also present in bus. Further, the persons at

the spot of the incident have not been examined by the prosecution, therefore such evidence lacks the support of direct witnesses on the material points discussed aforesaid. Though injuries are proved to have suffered by passengers, prosecution has failed to prove beyond a reasonable doubt that, the accused was responsible for causing such injuries by his rash or Negligent act.

34. Considering the evidence on record, I am of the view that the prosecution has failed to prove the guilt of the accused beyond a reasonable doubt. Hence, in view of the above reasons and findings, in answer to point No.3, I pass the following order:

ORDER

- 1) The accused, namely **Gajanan Pandirao Savadkar**, is acquitted of the offences punishable under sections 279 and 337 of Indian Penal Code, 1860 vide Sec.255(1) of Code of Criminal Procedure, 1973.
- 2) Bail bonds of the accused stands cancelled. He is set at liberty.
- 3) Accused to execute a personal bond of Rs.15,000/- with surety of like amount as per of section 437-A of Code of Criminal Procedure.

(Pronounced in open Court)

Sd/-

Place : Risod
Date : 16/03/2026

(Shri. Kiran D. Lukde)
Judicial Magistrate, First Class,
(Court No. 3), Risod.

Part 'C'

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

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES

A. Prosecution :

RANK	NAME	NATURE OF EVIDENCE
P.W. 1 -Exh.20	Prashant Pundlikrao Ingole	Informant
P.W. 2 -Exh.24	Shailesh Madhukarrao Chaudhari	Witness
P.W. 3 -Exh.26	Ramesh Taterao Sawant	Spot Pancha witness
P.W. 4 -Exh.28	Gorakhnath Kisan Zanak	Spot Panch witness

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE
DW	----	----

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE
CW	----	-----

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS**A. Prosecution :**

Sr.No.	Exhibit Number	Description
1.	21	Statement of informant
2.	22	First Information Report
3.	25	Vehicle examination report
4.	27	Spot panchnama
5.	29	Spot panchnama signature
6.	29 A	Injury Certificate

B. Defence :

Sr.No.	Exhibit Number	Description
1.	----	----

C. Court Exhibits :

Sr.No.	Exhibit Number	Description
1.	----	----

D. Material Objects :

Sr.No.	Exhibit Number	Description
1.	----	----

Sd/-

Place : Risod
Date : 16/03/2026

(Shri. Kiran D. Lukde)
Judicial Magistrate, First Class,
(Court No. 3), Risod.

CERTIFICATE

“I affirms that the contents of this PDF file Judgment/ Order are same word for word as per the original Judgment/Order.”

Name of the Steno : Pandit, Jr. Clerk
Name of the Court : JMFC Court No.3, Risod.
Date of Order : 16.03.2026
Order signed by PO on : 16.03.2026
Order uploaded on : 16.03.2026

