

Filed on : 10/10/2022.
Registered on : 10/10/2022.
Decided on : 12/01/2024.
Duration : 01Y- 03M- 02D.

Exh. : 15.

IN THE COURT OF THE METROPOLITAN MAGISTRATE,
40TH COURT, GIRGAON, MUMBAI.

(PRESIDED OVER BY SHRI.N.A.PATEL)

- (a) The serial number of the case : **1606/PS/2022**
- (b) The date of the commission of the offence : 06/07/2022
- (c) The name of the Informant : The State (Malbar Hill Police Station in C. R. No. 313/2022)
- (d) The name of the accused person/s, age and residence : **Bablu Ajay Gupta,**
Age – 25 years, Occ.- Service,
Res:- Room no.72, Shivaji Nagar, Nepean Sea Road, Malbar Hill, Mumbai- 06.
- (e) The offence complained of : Under Sections 279 and 336 of the Indian Penal Code.
- (f) The plea of the accused and his examination : The accused pleaded not guilty.
- (g) The final order : The accused is acquitted.
- (h) The date of such order : 12/01/2024.

Ld. APP for the State : Shri. B.U. Gavali
Ld. Adv. for the accused : Shri K. N. More.

J U D G M E N T
(Delivered on 12th January 2024)

The accused is facing trial for the offences punishable under Sections 279 and 336 of the Indian Penal Code.

The case of the prosecution in nutshell is as under ;

2. The incident took place on 06/07/2022 at about 15:50 pm at J. Mehta road, in front of SBI officers building, Malbar Hill, Mumbai-06. When he was patrolling that time accused was driving vehicle from wrong side i.e. J. Mehta bus stop to SBI on one way. The accused was driving vehicle bearing number MH-01-DD-2621. Thus, this report.

3. On the basis of the report the offences punishable under Sections 279 and 336 of the Indian Penal Code was registered vide Crime No. 313/2022. Investigating Officer has recorded the statements of the witnesses and submitted the charge-sheet against the accused.

4. The accused was appeared. I have recorded particulars of offence vide Exh.6 and plea vide Exh.5. Thereafter, prosecution has examined one witness. I have recorded the statement of accused under Section 313 of Cr.P.C. vide Exh.14.

5. Following points are arises for my determination and I have recorded my findings for the reasons thereon is as below ;

	<u>Points</u>	<u>Findings</u>
<u>Sr.</u>		
<u>Nos</u>		

1. Whether prosecution proved that on 06/07/2022 at about 15:50 hours at J. Mehta Road, in front of SBI officers building, Malbar Hill, Mumbai-06, accused drove motor scooter bearing no. MH-01-DD-2621, in a manner 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 the IPC ? In negative.
2. Whether prosecution proved that on the abovesaid date, time and place, accused drove motorcycle in so rash or negligent manner as to endanger human life and personal safety of others and thereby committed an offence punishable under Section 336 of IPC ? In negative.
3. What order ? Accused is acquitted.

REASONS

AS TO POINT NO. 1 AND 2 :-

6. To bring home guilt of the accused the prosecution has examined the informant Vijaykumar Vithhal Jadhav as (PW1) vide Exh.8. He deposed that on 06/07/2022 he was attached to Malbar Hill traffic division as a rider and his duty hours were from 09:00 am to 09:00 pm. On that day one person came on wrong side from J. Mehta bus stop to SBI on one way. He was on two wheeler bearing no. MH-01-DD-2621. He has inquired him and taken to the police station and lodged the FIR vide Exh.9.

7. To prove the guilt of the accused prosecution has examined only one witness. The informant and eye witness Vijaykumar Vithhal Jadhav as (PW1). It means that the entire story of the prosecution is

depends on the sole testimony of the informant. Vijaykumar Vithhal Jadhav (PW1) specifically deposed that the accused came from the wrong side. Therefore, they stopped, inquired and taken him to the Malbar Hill Police Station. It is the fact that no statement of independent witnesses was recorded by the police. Even there is no spot panchanama to show that from which road, from which direction accused was driving his motorcycle. It creates doubt in the story of the prosecution and the accused is entitled for benefit of doubt. Hence, I answer both the points in negative.

AS TO POINT NO. 3 :-

8. In answer to this point. I pass the following order -

:- O R D E R :-

1. Accused is hereby acquitted of the offences punishable under Sections 279 and 336 of the Indian Penal Code vide Section 255(1) of the Code of Criminal Procedure.
2. His bail bond stands cancelled.
3. Accused is directed to furnish the bail as per Section 437-A of the Cr.P.C.

-sd/-

(*Nadeem A. Patel*)
Metropolitan Magistrate,
40th Court, Girgaon, Mumbai.

Date:- 12/01/2024.

Dictated on : 12/01/2024.
Transcribed on : 12/01/2024.
Signed on : 12/01/2024.