

HRSO030006312017



**IN THE COURT OF MS. SAKSHI GUPTA, JUDICIAL MAGISTRATE
1ST CLASS, SONIPAT
(UID: HR-0541)**

CNR no.: HRSO030006312017

CIS no. : CHI/944/2017

Date of Institution: 15.07.2017

Date of Decision: 28.07.2026

State Vs. Akshay S/o Sultan Singh R/o Bhatgaon
District Sonapat.

.....Accused

FIR no.: 0204 dated 25.05.2017

under Sections 279, 337, 338 IPC and 3/181 and
146/196 MV Act

PS Sadar Sonapat

Present: Sh. Manoj Kumar, Learned APP for the State
Accused Akshay on bail with Sh. Ajit Verma Advocate.

JUDGMENT:

1. The above named accused has been sent up to face trial under Sections 279, 337, 338 IPC and 3/181 and 146/196 MV Act by the SHO, Sadar Police Station, Sonapat.

Prosecution Case :

2. Brief fact of the case as stated by the complainant Sumit S/o is that he has been living with his maternal uncle Jagbir S/o Chandan Singh for about 1 year. On 18/5/17, Sandeep S/o Jagbir and he were going home from outside. Sandeep is mentally challenged and cannot speak. He was walking ahead of complainant. At that time, a motorcycle rider came from behind at a high speed and in a rash and negligent manner. Seeing him, he moved to one

side. That motorcyclist hit Sandeep, who was walking ahead, with his motorcycle. Due to the impact, both Sandeep and the motorcyclist fell down on the spot. He took care of Sandeep and noted down the motorcycle number, which was HR10V-8841. The motorcycle was being driven by Akshay whom he know personally. Then many people gathered there. Akshay picked up his motorcycle and fled from the spot. Thereafter, he called his maternal uncle Jagbir and informed him. Both of them then took Sandeep to GH Sonapat for treatment. From there, the doctor referred Sandeep to PGI Rohtak for treatment. That same night they admitted Sandeep to PGI Rohtak. On dated 19/5/17, the doctor discharged Sandeep. This accident was caused by Akshay by driving his motorcycle at a high speed and in a negligent manner with Sandeep and thus he requested that strict legal action may kindly be taken against him.

Investigation :

3. On the basis of this information the instant FIR was registered. During investigation, medical evidence was collected, rough site plan was prepared accused were arrested and on completion of investigation, the challan against the above said accused was presented before the court.

Charge:

4. Upon appearance of the accused, he was supplied with copies of police report and other documents appended therewith free of cost as per the mandatory requirement under section 207 Cr.P.C.

5. After hearing the Ld. APP for state and Ld. Counsel for the

accused and considering the report under section 173 Cr.P.C., a prima facie for commission of offence under Sections 279, 337, 338 IPC and 3/181 and 146/196 MV Act was made out against the accused, for which he was charge-sheeted to which the accused pleaded not guilty and claimed trial.

Prosecution Evidence:

6. In order to prove its case the prosecution has examined the following witnesses:-

Sr. No.	PWs	Name of witness
1.	PW1	Sumit S/o Naresh (Complainant)
2.	PW2	ASI Ramdutt No. 438/SPT
3.	PW3	Retired Inspector Naresh Kumar
4.	PW4	HC Shiv Om No. 2130/SPT
5.	PW5	SI Bijender No. 424/SPT
6.	PW6	Retired Inspector Virender Singh
7.	PW7	Dr. Parveen presently posted at SGT

The prosecution relied upon the following documents/properties:

Sr. No.	Description
Ex. PW1/A	Complaint dated 25.05.2017
Ex. PW2/A	Mechanical Report dated 24.07.2024
Ex. PW3/A	FIR dated 25.05.2017
Ex. PW3/B	FIR
Ex. PW4/A	Recovery memo of RC and MC dated 07.06.2017
Ex. PW5/A	Site plan

Ex. PW7/A	MLR Police information
Ex. PW7/B	MLR dated 18.05.2017

Prosecution has firstly examined **Sumit S/o Naresh as PW-1 (Complainant)** who reiterated the same contents mentioned in the FIR which are not reproduced here for the sake of brevity. In this regard, he also stated to have filed a complaint which is Ex PW1/A which bears his signature at point-A.

In his cross-examination, he stated that the occurrence took place at about 5:00–6:00 PM. He was walking about 10–15 steps behind Sandeep. It is correct that Sandeep was walking slowly. It is correct that when Sandeep sustained injuries, a large number of people gathered at the spot. They took Sandeep to the Civil Hospital in an ambulance. The police met him later at PGIMS, Rohtak, during the night. The police recorded his statement at PGIMS, Rohtak, and obtained his signatures thereon. It is correct that the police met him only once, i.e., at PGIMS, Rohtak. He did not visit the police station in connection with this case. It is incorrect to suggest that he got the accused falsely implicated due to previous enmity. It is incorrect to suggest that Sandeep sustained the injuries as a result of stumbling and falling. It is further incorrect to suggest that, in order to obtain compensation/claim, they in connivance with the police, got a false case registered.

Prosecution has further examined **SI Ramdutt No. 438/SPT as PW-2** who deposed that on dated 17.06.2017 he was posted at Motor Mechanic at Police Line, Sonapat. On that day, he conducted the mechanical examination of the offending vehicle i.e. motor-cycle bearing No. HR-10V-8841. In this regard, he prepared his report which is Ex. PW2/A.

In his cross-examination, he stated that it is correct that the owner of the vehicle was neither called at the time of the mechanical inspection nor did he know him. He also did not visit the place of occurrence. He denied the suggestion that he is deposing falsely being police official.

Prosecution has further examined **Inspector Naresh Kumar S/o Zorawar Singh as PW-3** who deposed that on dated 25.05.2017 he was posted as Duty Officer at PS Sadar, Sonapat. On that day, complainant has produced a complaint which is Ex. PW1/A and registered the FIR and made endorsement which is Ex. PW3/A. Formal FIR which is Ex. PW3/B.

In his cross-examination, he stated that date of incident is 18.05.2017. He denied the suggestion that FIR is ante-dated nor the ante-timed.

Prosecution has further examined **HC Shiv Om No. 2130/SPT as PW-4** who deposed that on dated 07.06.2017 he was with the IO for joining investigation. The motorcycle and its RC produced by him were taken into police possession vide seizure memo Ex. PW4/A which bears his signature as witness.

In his cross-examination, he stated that during the investigation no public was joined. The IO neither prepared any inspection memo of the accused nor got any identification proceedings conducted. He does not know as to due to whose fault the accident occurred. He does not remember the colour of the vehicle even today. He denied the suggestion that he did not remain associated with the IO during the investigation. He denied the suggestion that he is deposing falsely.

Prosecution has further examined **SI Bijender Singh No. 424/SPT as PW-5** who deposed that on dated 25.05.2017 he was posted as SDO at PS Sadar Sonapat. On that day, he has prepared the site plan which is Ex. PW5/A. On dated 07.06.2017 he arrested the accused person. Accused has produced the RC of motor-cycle and were taken into police possession which is Ex. PW4/A. On dated 17.06.2017 he conducted the mechanical examination and statement of witnesses were recorded. Accused (present in Court) is identified by him.

In his cross-examination, he stated that they visited the place of occurrence on 26.05.2017 at about 9:30 AM and remained there for approximately one and a half hours. It is correct that there were several houses and shops situated in the vicinity of the place of occurrence. No public person was joined as a witness. The accused appeared before the police on 27.05.2017, and he was produced by his uncle, Lekh Raj. They prepared the site plan while sitting at the place of occurrence itself. At the time of his arrest, the accused produced the aforesaid motorcycle. He met the injured, Sandeep,

on 25.05.2017. It is incorrect to suggest that the site plan was not prepared at the place of occurrence. It is further incorrect to suggest that he carried out the entire proceedings while sitting in the police station. It is also incorrect to suggest that he never visited the place of occurrence.

Prosecution has further examined **Retired Inspector Virender Singh as PW-6** who deposed that on dated 21.06.2017 he was posted as SHO at PS Sadar Sonapat. On dated 21.06.2017 he prepared his report 173 Cr.P.C which bears his signature.

In his cross-examination, **NIL OPPORTUNITY GIVEN**

Prosecution has further examined **Dr. Parveen as PW-7** who deposed that on dated 18.05.2017 he was posted at GH Sonapat. On that day, he medical examination of Sandeep in this regard. Ruka which is Ex. PW7/A and MLR which is Ex. PW7/B which bears his signature.

In his cross-examination, he stated that injuries can be sustained by falling on a hard surface. He denied the suggestion that he has prepared a false FIR.

7. Thereafter, Ld. APP for the State vide separately recorded statement on 21.07.2026 and thereafter, prosecution evidence was closed by court order.

Statement u/s 313 Cr.P.C:

8. After evidence of the prosecution, statement of the accused under Section 313 Cr.P.C. was recorded, wherein the entire incriminating evidence

available on file was put to the accused. The accused denied all the allegations leveled against him and pleaded false implication and innocence.

Defence Evidence:

9. Accused stated that he does not want to lead any evidence in defence. Therefore defence evidence was closed by court order.

Arguments Prosecution:

10. Learned APP for the State has argued that the prosecution has proved its case beyond reasonable doubt by examining the material witnesses. Therefore, accused be convicted for the charges framed against him.

Arguments Defence:

11. On the other hand, learned defence counsel vehemently contested the allegations levelled against the accused by the prosecution. It has been contended that a false case has been foisted upon the accused only for ulterior motives. The case of the prosecution suffers from inherent lacunae and discrepancies and no independent witness was joined on the spot despite availability and opportunity. Therefore accused is entitled to be acquitted in the present case.

12. Arguments by Ld. APP for the State and Ld. Defence Counsel for the accused heard and record of the case perused.

Points of Determination

12. The point for determination in the present case is that;

“Whether on 25.05.2017 the accused driving the vehicle bearing registration no. HR-10AV-8841 in a rash and negligent manner caused

simple hurt to complainant and grievous hurt to complainant ?

FINDINGS OF THE COURT:

13. First and foremost, it is pertinent to mention here that it is the cardinal principle of the *criminal jurisprudence* that prosecution has to prove its case beyond reasonable doubt so that the court may come to a conclusive presumption that no one other than the accused has committed the alleged offence. In every criminal case, prosecution is required to prove the guilt of the accused beyond shadow of reasonable doubt. There is a long distance between the suspicion and the proof to be required to be proved by the prosecution, with convincing oral and documentary evidence. Mere suspicion, how so much ever strong, may not take place of proof.

14. Briefly stated, the facts of the present case are that on 18.05.2017, while complainant namely Sumit and his cousin Sandeep were going on foot, a motorcycle rider namely Akshay (accused) came from behind at a very high speed driving his vehicle rashly and negligently who was known to the complainant on vehicle bearing number HR-10V-8841 hitting Sandeep and causing him injuries thereof.

15. So far as the contradictions are concerned there are two types of contradictions/discrepancies i.e normal and material. Normal discrepancies in evidence are those which are due to normal errors of observation normal errors of memory due to lapse of time due to mental disposition such as shock and horror at the time of occurrence and those are always there however honest and truthful a witness may be. Material discrepancies are those which are not

normal and not expected of a normal person courts have to label the category to which a discrepancy may be categorized. While, normal discrepancies do not corrode the credibility of a party's case. The contradictions in the evidence of the witnesses referred to in the present case by Ld. Counsel for accused are of very minor nature which instead of discarding their testimony strengthens the case of the prosecution of the witnesses being truthful as they were not shown to have made parrot like statements. A deep examination of the argument of Ld. Counsel for accused shows that the same is uncalled for not based upon the facts of the case or the legal evidence tendered in the case and is the result of conjectures, imagination and hypothesis. This view is fully supported by an authoritative pronouncement made in case titled as **Allarakha K Mansuri vs State of Gujrat 2002(1)RCR(CR)748(SC)** and **State of Punjab vs Karnail Singh 2003(3)CR.CC519(SC)**. In view of this Court, the close scrutiny of prosecution evidence reveal many discrepancies which are as follows:-

Firstly, it is imperative to mention here that whole of the case of prosecution is based upon the evidence of the complainant, namely Sumit as even the injured person that is Sandeep could not be examined in court about the alleged incident due to his incapacity to be a competent witness. Sumit not only had given the number of the bike has also given the name of the alleged driver stating that accused Akshay being the driver of the offending vehicle was already known to him, and thus he could recognize him. However, no independent evidence, either in form of CCTV footage etc. or any eyewitness to the alleged incident has been examined by the prosecution to strengthen the

case of the complainant. In the given scenario, finding accused guilty merely on the basis of testimony of complainant is unsubstantiated.

Secondly, there is an unexplained delay in registering the present FIR. As while the alleged incident has occurred on 18.05.2017, the first application for registration of FIR has been given to police on 25.05.2017 by the complainant in spite of not only knowing the details of the bike but also the person driving the same. This raises questions on the veracity of the story of the prosecution.

Further more, the whole case of prosecution of having arrested accused is solely based on the testimony of complainant Sandeep. Neither any notice of 133 of MV Act has been served on the RC holder of the offending vehicle who is allegedly a different individual other than the accused nor any other link between accused driving the offending vehicle at the time of said incident has been made out by prosecution in furtherance and to give strength to the story of complainant.

Another very important aspect of the case of prosecution is that admittedly, while the injured, namely, Sandeep is mentally challenged, deaf, and dumb, and thus, the possibility of he being hit by the offending vehicle as a result of his own negligence or carelessness on the road cannot be ruled out. There is nothing on record that can suggest any rashness or negligence undertaken by the accused while driving the alleged vehicle, which is an important ingredient for making out the concerned offences. This when seen in

light of the argument and suggestion put forth by counsel for accused in cross-examination of PWS that the said case has been registered against accused by name, deliberately only for the purpose of claiming Insurance, not only creates doubt upon the story of complainant, but also put this court at guard to not let anyone use the criminal machinery to their advantage.

In the given scenario, this court is of the considered view that prosecution has failed to discharge its burden of proof beyond reasonable doubt.

16 The rule regarding the benefit of doubt does not warrant acquittal of the accused by resorting to surmises, conjectures or fanciful considerations, as has been held by Hon'ble Supreme Court in the case of **State of Punjab Vs. Jagir Singh, (1974) 3 SCC 277.**

“A criminal trial is not like a fairy tale wherein one is free to give flight to one's imagination and fantasy. It concerns itself with the question as to whether the accused arraigned at the trial is guilty of the offence with which he is charged. Crime is an event in real life and is the product of interplay of different human emotions. In arriving at the conclusion about the guilt of the accused charged with the commission of a crime, the court has to judge, the evidence by the yardstick of probabilities, its intrinsic worth and the animus of witnesses. Every case in the final analysis would have to depend upon its own facts. Although the benefit of every reasonable doubt should be given to the accused, the courts should not at the same time reject evidence which is ex facie trustworthy, on grounds which are fanciful or in the nature of conjectures.”

17 Further, this court would like to draw support from the judgment given by a Division Bench of the Hon'ble Punjab and Haryana High Court titled as **State of Haryana Vs. Shamsher Singh 2006 (3) RCR (Criminal) 345** wherein, it was held that in a criminal trial the prosecution is cast with a

very serious duty to bring on record quality evidence in order to substantiate its allegation against the accused person. It cannot seek conviction of any person without bringing substantial evidence on record as it becomes extremely difficult for the Court to pronounce a person guilty in absence of fool-proof evidence nailing guilt by the accused person.

18 Hence, on the basis of above discussions and testimony of witnesses, benefit of doubt goes in favour of the accused person. So accordingly, **accused Akshay present in the court is acquitted of the charge framed against him.** As per the amended provision of Section 437-A of Cr.P.C, accused is directed to furnish fresh bonds in the sum of Rs. 30,000/-, which would remain in force for six months to secure his presence before the Ld. Appellate Court, if need be, if any appeal against this judgment is preferred by the prosecution/complainant. Accused requested that he is unable to produce surety at this stage. Accordingly, he is directed to furnish personal bonds. Requisite bonds furnished, accepted and attested. Case property (if any) be dealt with as per rules. Original documents be returned as per rules. Papers be attached with the main file and consigned to record room, after due compliance.

Pronounced in Open Court: 28.07.2026

(Sakshi Gupta)
Judicial Magistrate Ist Class
Sonepat/UID no.: HR0627

Note All the 13 pages of this judgment/order have been checked & signed by me.

(Sakshi Gupta)
Judicial Magistrate Ist Class.
Sonepat, UID No. HR0627

Typed by: Usha Rani, Stenographer G-II

(Sakshi Gupta)
Judicial Magistrate 1st Class,
UID No.: HR-0627
Sonepat, 28.07.2026

CIS No. CHI-944/2017
CNR No. HRSO0300 6312017
Date of Institution: 15.07.2017
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F.I.R. No. 204 dated 25.05.2017
under Sections 279, 337, 338 IPC and 3/181 and 146/196 MV Act
PS Sadar Sonapat

Annexures as per guidelines by the Supreme Court of India
Witnesses examined.

<u>Sr. No.</u>	<u>Name of witness</u>	<u>Relevancy</u>
1	Sumit S/o Naresh	He is the complainant in the present case
2	ASI Ramdutt No. 438/SPT	He conducted the mechanical examination of the offending vehicle
3	Inspector Naresh Kumar	He registered the Formal FIR
4	HC Shiv Om No. 2130/SPT	He is the joined investigation in the present case
5	SI Bijender Singh No. 424/SPT	He prepared the site plan
6	Retired Inspector Virender	He prepared his report under Section 173 Cr.P.C.
7	Dr. Parveen	He conducted the medical examination of Sandeep

List of following documents/case property

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Ex. PW7/A	MLR Police information
Ex. PW7/B	MLR dated 18.05.2017