

State of Haryana versus Sombir @ Kaku
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IN THE COURT OF NIDHI SOLANKI, CHIEF JUDICIAL MAGISTRATE, CHARKHI DADRI. (UID-HR-0353)

Date of Judgment : 04.07.2026

CNR No. : HRC03-000394-2020

CIS No. : CHI/94/2020



FIR No. : 356 Dated: 16.12.2019

Under Section : 279, 337, 338 of Indian Penal Code, 1860 & Section 3/181 of M.V. Act.

Police Station : City Dadri.

Complainant	Sombir
Represented by	Sh. Parveen Kumar, Asst. Public Prosecutor for State.
Accused	Sombir @ Kaku son of Raju, resident of Dadri, Tehsil and District Charkhi Dadri.
Represented by	Shri Mohit Sharma, Advocate for the accused Sombir @ Kaku.

Date of Offence	09.12.2019
Date of FIR	16.12.2019
Date of Chargesheet	31.01.2020
Date of Framing of Charges	14.09.2021
Date of commencement of evidence	10.03.2022
Date of the Judgment	04.07.2026
Date of Sentencing order, if any	-----

Nidhi Solanki, HR0353
Chief Judicial Magistrate,
Charkhi Dadri, 04.07.2026

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Rank of the accused	Name of the accused	Date of arrest	Date of release on bail	Offence charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during trial for the purposes of section 482 Cr.P.C
1.	Sombir @ Kaku son of Raju, resident of Ddari, Tehsil and District Charkhi Dadri.	25.12.2019	25.12.2019	279, 337, 338 of Indian Penal Code, 1860 & Section 9/181 of M.V. Act.	Acquitted		

Rank	Name	Nature of Evidence (Eye witnesses, Police witness, Expert witnesses, Medical witnesses, Panch Witnesses, other witnesses
PW1	Multan, MRO, PGIMS, Rohtak.	Formal Witness.
PW2	ASI Vikram Singh	Investigating Officer
PW3	Sombir	Complainant.
PW4	Retired ASI Vijaypal	Formal Witness.
PW5	Retired EHC Rajpal Singh	Formal Witness.
PW6	Sudesh	Private Witness.

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PW7	Dr. Annu	Formal Witness.
PW8	HC Sandeep	Police Witness.
PW9	Ct. Manoj	Police Witness.

Defence Witnesses, if any:

Rank	Name	Nature of Evidence (Eye witnesses, Police witness, Expert witness, Medical witness, Panch Witness, other witness)
No Defence Witness		

Court Witnesses, if any:

Rank	Name	Nature of Evidence (Eye witnesses, Police witness, Expert witness, Medical witness, Panch Witness, other witness)
No Court Witness		

List of Prosecution/Defence/Court Exhibits

A. Prosecution

Sr. No.	Exhibit Number	Description
1.	Ex. PW1/A	Photocopy of medical record pertaining to injured Sombir bearing CR No. 117609.
2.	Ex. PW2/A	Police Proceedings.
3.	Ex.PW2/B	Site plan.
4.	Ex.PW2/C	Application for obtaining opinion regarding sustaining injuries by complainant.
5.	Ex.PW2/D	Arrest memo of accused Sombir @ Kaku.

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6.	Ex.PW2/E	Recovery memo of motorcycle bearing registration No. HR19M-4677
7.	Ex.PW3/A	Complaint.
8.	Ex.PW4/A	FIR
9.	Ex.PW4/B	Endorsement
10.	Ex.PW5/A	Mechanical Inspection Report of motorcycle bearing registration No. HR19M-4677.
11.	Ex.PW7/A	Police Information (P.I.) Form
12.	Ex.PW7/B	MLR of complainant

B. Defence:

Sr. No.	Exhibit Number	Description
No Defence evidence		

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
No Court Exhibit		

D. Material Objects:

Sr. No.	Material Object Number	Description
No Material Objects		

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Judgment:-

Introduction

1. Accused named above has been sent up for facing trial for commission of offence punishable under Section 279, 337, 338 of Indian Penal Code, 1860 (**hereinafter referred as the ‘IPC’**) & Section 9/181 of M.V. Act, by the police station City Dadri, Charkhi Dadri.

Prosecution Case

2. Brief facts of the prosecution case are that on 09.12.2019, ASI Vikram Singh received information from MHC, Police Station City Dadri, regarding admission of injured Sombir in General Hospital, Dadri, after a road traffic accident. The Investigating Officer obtained the medico-legal report and the medico-legal ruqa from General Hospital, Dadri, wherein the injured had been referred to PGIMS, Rohtak for further management. Since it was late in the evening, the Investigating Officer could not proceed to PGIMS, Rohtak on the same day. On the following day, he visited PGIMS, Rohtak for recording the statement of the injured, but the injured was not found admitted there. Thereafter, on 16.12.2019, injured Sombir appeared before the Police Station and got recorded his statement. He alleged that on 09.12.2019 at about 5:00 PM, he along with his wife Sudesh had come to Dadri city for some personal work. While he had stopped near Kachhari Chowk on Rohtak Road and had proceeded towards a nearby spare parts shop on foot, a motorcycle bearing registration No. HR-19M-4677, being driven by accused Kaku @ Raju at a high speed and in a rash and negligent

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manner, struck him from behind, causing injuries on his legs and jaw. He further alleged that after the accident, the accused disclosed his name as Kaku @ Raju and thereafter left the spot. The injured was shifted to General Hospital, Dadri by passersby and was subsequently referred to PGIMS, Rohtak. With said submissions, he requested for taking legal action against the driver of the offending vehicle.

Investigation

3. On the basis of the aforesaid statement, police proceedings were initiated and formal FIR came to be registered. During investigation, the Investigating Officer prepared the site plan of the place of occurrence, arrested the accused, took into possession the offending motorcycle along with its registration certificate, got the motorcycle mechanically inspected and obtained the Bed Head Ticket (BHT) of the injured from PGIMS, Rohtak. Upon receipt of the BHT showing fracture injuries, Section 338 IPC was added. It was also found during investigation that the accused was not holding a valid driving licence, whereupon Section 9/181 of the Motor Vehicles Act, 1988 was also invoked. After completion of investigation, the police presented the challan before the Court.

4. Copy of challan was given to accused free of cost as provided under Section 207 Cr.P.C.

Charges

5. After perusal of the records, finding the prima facie case made out, the charges were framed against the accused under Section 279, 337 and 338 of Indian

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Penal Code, 1860 and Section 9/181 of M.V. Act vide separate order dated 14.09.2021 passed by Sh. Sandeep Yadav, the then learned Chief Judicial Magistrate, Charkhi Dadri, to which the accused pleaded not guilty and claimed trial.

Prosecution Evidence

6. The prosecution during the course of its evidence has examined nine witnesses.

Brief discussion of oral evidence –

7. Material witness of the prosecution i.e. PW-1 Multan, MRO, PGIMS, Rohtak, produced the original medical record pertaining to injured Sombir bearing CR No. 117609 and proved the photocopy thereof as Ex. PW1/A.

PW-2 ASI Vikram Singh, the Investigating Officer, deposed regarding the receipt of information, collection of the medico-legal record, recording of the statement of the injured, preparation of police proceedings Ex. PW2/A, preparation of site plan Ex. PW2/B, arrest of the accused vide arrest memo Ex. PW2/D, seizure of the offending motorcycle and its registration certificate vide memo Ex. PW2/E, obtaining the mechanical inspection report and subsequent collection of the Bed Head Ticket from PGIMS, Rohtak. He further deposed that after completion of investigation, he presented the challan before the Court.

During his cross-examination, PW-2 admitted that the place of occurrence was situated at Rohtak Chowk, which remained heavily crowded

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during the relevant hours of the day. He further admitted that police officials were generally deployed on traffic duty at the said Chowk and traffic congestion frequently occurred during evening hours. He also admitted that despite the place being crowded, no independent shopkeeper or public person was joined during investigation. He further admitted that although CCTV cameras had been installed in the vicinity, no CCTV footage pertaining to the occurrence could be collected during investigation.

PW-3 Sombir, the injured complainant, deposed that on 09.12.2019, while he was proceeding on foot towards a spare parts shop from Fawwara Chowk, the accused, while driving the offending motorcycle at a fast speed and in a rash and negligent manner, hit him from behind, resulting in injuries on his legs and jaw. He identified the accused present in Court.

In his cross-examination, PW-3 admitted that he had sustained about three to four injuries. He further stated that he was taking a turn towards the shop from the road and volunteered that he was still on the road. He initially stated that he did not see the offending motorcycle approaching him, but thereafter volunteered that he had seen the offending vehicle. He denied the suggestion that the accident had occurred due to his own negligence.

PW-4 ASI Vijpal proved registration of the formal FIR Ex. PW4/A and endorsement Ex. PW4/B made on the basis of the police proceedings received from ASI Vikram Singh.

PW-5 Retired EHC Rajpal Singh proved the mechanical inspection

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report of motorcycle bearing registration No. HR-19M-4677 as Ex. PW5/A.

PW-6 Sudesh, wife of the complainant, supported the prosecution version regarding the occurrence.

PW-7 Dr. Annu, Medical Officer, General Hospital, Dadri, deposed that she had medically examined injured Sombir on 09.12.2019 after the road traffic accident, prepared his Medico Legal Report Ex. PW7/B and forwarded the medico-legal ruqa Ex. PW7/A to the police.

PW-8 Head Constable Sandeep deposed that he had taken the written tehrir to the Police Station for registration of the FIR. He further proved the site plan of the place of occurrence/recovery, Ex. PW-2/B, which was prepared in his presence, and identified his signatures thereon.

PW-9 Constable Manoj deposed that accused Sombir @ Kaku suffered a disclosure statement in his presence, which was proved as Ex. PW-2/D. He further proved the seizure memo Ex. PW-2/C, vide which the offending motor vehicle involved in the accident, along with its Registration Certificate (RC), produced by the accused, was taken into police possession. The witness identified his signatures on the aforesaid documents.

Statement under section 313 Cr.P.C.

8. The statement of accused was recorded separately under Section 313 of Cr.P.C. All the incriminating evidence was put to him to which he denied the allegations and pleaded false implication. However, he did not opt to lead any evidence in defence.

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FINDINGS:-

9. I have heard the rival contentions of learned counsel for both sides and gone through the case file very carefully and minutely.

10. The burden lies entirely upon the prosecution to establish the guilt of the accused beyond all reasonable doubt. It is a settled proposition of criminal jurisprudence that the accused is presumed to be innocent unless the prosecution succeeds in proving each and every ingredient of the alleged offences by leading cogent, reliable and convincing evidence. Suspicion, however strong, cannot take the place of legal proof.

11. In the present case, the accused has been charged for commission of offences punishable under Sections 279, 337 and 338 IPC. In order to bring home the guilt of the accused under the aforesaid provisions, the prosecution was required to establish, firstly, that the accused was driving the offending motorcycle; secondly, that he was driving the same on a public way in a rash or negligent manner so as to endanger human life or personal safety of others; and thirdly, that such rashness or negligence was the direct and proximate cause of the injuries sustained by complainant Sombir. Mere proof of an accident or proof of injuries by itself is not sufficient to fasten criminal liability upon an accused. The essential ingredient of rashness or negligence must be proved by reliable evidence. The prosecution has primarily relied upon the testimony of injured PW-3 Sombir. It is well settled that the testimony of an injured witness ordinarily carries considerable evidentiary value as such a witness is a natural witness to the occurrence. At the same time, it is equally settled that the testimony of an injured witness is not

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immune from judicial scrutiny and must inspire confidence. If material inconsistencies or improbabilities are found therein, the Court is duty-bound to examine the evidence with greater caution. A careful reading of the testimony of PW-3 reveals that except making a bald allegation that the motorcycle was being driven at a "fast speed" and in a "rash and negligent manner", he has not disclosed any specific fact from which rashness or negligence can reasonably be inferred. He has nowhere stated the approximate speed of the motorcycle, the traffic conditions prevailing at the relevant time, the distance from which the motorcycle approached him, whether the rider was zigzag driving, whether he ignored any traffic signal, whether he attempted to overtake another vehicle dangerously or whether any other circumstance existed from which culpable rashness or negligence could be deduced. It is a settled proposition of law that mere use of the expressions "rash and negligent" by a witness amounts only to reproduction of the language of the statute and cannot, by itself, constitute proof of rashness or negligence. The witness is required to depose regarding the factual manner in which the vehicle was being driven, leaving it to the Court to determine whether such conduct amounts to rashness or negligence in law. It is also noteworthy that during his cross-examination, PW-3 stated that he was taking a turn towards a spare parts shop from the road. Though he volunteered that he was still on the road, he simultaneously admitted that he had initially not seen the offending motorcycle approaching him and thereafter volunteered that he had seen it. These statements are not entirely consistent with each other and create uncertainty regarding the exact manner in

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which the accident occurred. The prosecution has not led any evidence to clarify these inconsistencies. Another significant circumstance which creates doubt regarding the prosecution version is the complete absence of independent corroboration. The Investigating Officer (PW-2) candidly admitted during his cross-examination that the place of occurrence was Rohtak Chowk, which remains heavily crowded during evening hours. He further admitted that police personnel remain deployed there for traffic regulation and that traffic congestion frequently occurs at the relevant time. Despite these admitted facts, no independent passer-by, shopkeeper or traffic police official present at the spot was either associated during investigation or produced before the Court. The explanation for such omission is conspicuously absent. When the accident is alleged to have taken place at one of the busiest intersections of the city during peak evening hours, the failure of the Investigating Officer to examine even a single independent witness assumes considerable significance. Though it is true that non-examination of independent witnesses is not invariably fatal to the prosecution case, yet where such witnesses were readily available and could have thrown light upon the actual manner of occurrence, their non-examination without any plausible explanation casts a serious shadow upon the fairness and completeness of the investigation. The prosecution has also failed to place on record any objective evidence supporting its version. PW-2 admitted that CCTV cameras had been installed near Rohtak Chowk. Though he stated that the cameras were situated at a distance of about 100 metres from the place of occurrence, he simultaneously admitted that no effort was made to collect

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or examine any CCTV footage whatsoever. The prosecution has not established that the cameras were incapable of capturing the occurrence or that the footage had become unavailable. In an era where electronic evidence frequently forms an important piece of corroborative evidence, the omission to even attempt collection of CCTV footage further weakens the prosecution case. The testimony of PW-6 Sudesh also does not materially improve the prosecution case. According to the prosecution version itself, the injured was shifted to the hospital by passers-by immediately after the accident. None of the contemporaneous medical documents prepared at General Hospital, Dadri records the presence of PW-6 with the injured. Her name does not find mention either in the MLR or in any other medical record. No explanation has been furnished by the prosecution for such omission. Consequently, her presence at the spot becomes doubtful and her testimony cannot safely be treated as independent corroboration of the prosecution story. The remaining witnesses, namely PW-1, PW-4, PW-5 and PW-7, are formal witnesses. PW-1 merely proved the hospital record, PW-4 proved registration of the FIR, PW-5 proved the mechanical inspection report and PW-7 proved the medico-legal examination of the injured. Their testimonies only establish that an accident had occurred and that the complainant sustained injuries. However, none of these witnesses throws any light upon the manner in which the accident actually occurred or establishes that the accused was driving the motorcycle in a rash or negligent manner. The mechanical inspection report Ex. PW5/A is also of little assistance to the prosecution. It neither indicates any mechanical defect in the vehicle nor does it

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establish rashness or negligence on the part of the accused. Likewise, the medical evidence only proves the nature of injuries sustained by the complainant. Medical evidence may corroborate the factum of injuries but cannot by itself establish the criminal rashness or negligence required under Sections 279, 337 and 338 IPC.

12. Thus, upon cumulative appreciation of the entire evidence, this Court finds that although the prosecution has succeeded in proving that the complainant sustained injuries in a road accident, it has failed to establish beyond reasonable doubt that the accident occurred solely on account of rash and negligent driving of the accused. The evidence led by the prosecution falls short of the standard required in criminal trials, and the benefit arising from these deficiencies must necessarily enure to the accused.

13. Coming to the charge under Section 9/181 of the Motor Vehicles Act, 1988, although the Investigating Officer has deposed that the accused was not possessing a valid driving licence, the prosecution has not proved by any cogent documentary evidence from the competent Licensing Authority that the accused did not hold a valid driving licence on the date of the alleged occurrence. No official from the Licensing Authority has been examined, nor has any certificate or record from the concerned authority been proved in accordance with law. Mere oral assertion of the Investigating Officer is insufficient to establish this offence beyond reasonable doubt. Consequently, the prosecution has failed to prove this charge as well.

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14. As a sequel to the above discussion, the prosecution has failed to establish its case beyond reasonable doubt. The accused is, therefore, entitled to the benefit of doubt. Resultantly, accused Kaku @ Raju is acquitted of the charges framed against him for the offences punishable under Sections 279, 337 and 338 of the Indian Penal Code and Section 9/181 of the Motor Vehicles Act, 1988, by extending to him the benefit of doubt. The bail bonds and surety bonds of the accused shall remain in force for a period of six months in terms of Section 437-A Cr.P.C. The case property, if any, be dealt with in accordance with law after expiry of the period of appeal/revision. File be consigned to the Record Room after due compliance.

Announced:
04.07.2026

Nidhi Solanki,
Chief Judicial Magistrate,
Charkhi Dadri, UID No. HR0353

Note: This judgment contains fifteen **(15)** pages which have been checked and singed by me.

gagan kumar
stenographer Gr.II

Nidhi Solanki,
Chief Judicial Magistrate,
Charkhi Dadri, 04.07.2026
(UID No. HR0353)