

WBDD060002612009



**IN THE COURT OF ADDITIONAL CHIEF JUDICIAL
MAGISTRATE, GANGARAMPUR AT BUNIADPUR, DAKSHIN
DINAJPUR**

**Present: Bibek Tamang (JO Code WB01235),
Additional Chief Judicial Magistrate,
Gangarampur at Buniadpur,
Dakshin Dinajpur.**

**Case No: G.R. No. 14 of 2019.
T.R. No. 1236 of 2009
C.I.S. No. 136 of 2015.**

State

.....Complainant

vs.

1) Nripen Sarkar

..... Accused.

Date of delivery of Judgment on 21.07.2026.

THIS IS A CASE UNDER SECTION 279/304A of Indian Penal Code.

CASE OF THE PROSECUTION

The case of the prosecution as per the written complaint is that on 27/12/2008 at about 7:00am, while Ranjit Ghosh, the father of defacto complainant was walking home from Bardangi, one truck bearing no WB 73/ 7201 hit Ranjit Ghosh from behind as a result of which Ranjit Ghosh suffered bleeding injuries from his head and fell on the road. Local people are said to have taken Ranjit Ghosh to Gangarampur Hospital from where he was referred to North Bengal Hospital but he is said to have been declared dead on reaching North Bengal Hospital.

Date of filing written complaint:-05/01/2009

INVESTIGATION

After investigation the Investigating Officer submitted Charge-sheet under section **279/304A** of Indian Penal Code against eight accused person bearing Charge-sheet No. 120/2009 dated 29.06.2009.

CHARGE

Charge was framed against the accused person for the offenses under sections **279/304A** of Indian Penal Code was read over and explained to them in Bengali language to which the accused pleaded “Not Guilty” by saying “Ami Nirdosh” and claimed to be tried in accordance to law.

WITNESSES

The prosecution has brought forth five (05) witness to bring home the guilt of the accused person. The evidence chapter of the prosecution was closed on prayer of Ld. APP.

Prosecution witnesses	Name	
P.W.1.	Shirju Ghosh	Defacto Complainant
P.W. 2.	Biswanath Chakraborty	Witness
P.W. 3.	Manoj Bhagat	Witness
P.W. 4.	Jaydeep Das	Witness
P.W. 5.	Parimal Chakraborty	Witness

EXHIBITS

SL No.	Exhibit	
1.	Exhibit 1	Signature on the written complaint.
2.	Exhibit 2	Report.
3.	Exhibit 3 series	Formal FIR, endorsement on complaint and signature of IC.
4	Exhibit 4 series	Rough sketch map and index.
5	Exhibit 5	Signature on seizure list.

EXAMINATION U/S 313 OF Cr.P.C

The accused was examined under section 313 of the Cr.P.C. to which the accused stated that he has nothing to say. Upon being asked, the accused declined to adduce any witness on their behalf.

FINDINGS

Before going into the merit of this case, let us go through the offences for which the accused have been tried.

Section 279 of Indian Penal Code, 1980 provides as follows:

279. Rash driving or riding on a public way.—

Whoever drives any vehicle, or rides, on any public way 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, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

To attract the provision of section 279 of IPC, the prosecution must establish that the driving was rash or negligent or was likely to cause hurt or injury to any other person.

Now, section 304 A of Indian Penal Code, 1980 provides for punishment for death by negligence as follows:

304A. Causing death by negligence.--*Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.*

If death is caused by any rash or negligent act which does not amount to culpable homicide, the punishment shall be imprisonment of either description which may extent to two years or fine or both.

In this instant case, PW1, the defacto complainant has deposed that his father was hit by a mini truck at Durgapur, Nayabazar about 5-6 years ago

but he had not witnessed the accident and local people had informed him about the vehicle registration number. However, through the testimony of PW1, we only find that his father had met with an accident. PW1 had neither witnessed the accident nor did he identify the accused and also could not state the registration number of the vehicle. Similarly, PW2 has also deposed that he had only heard about the accident but could not shed any light into how the vehicle was being driven or who was driving the vehicle or how the accident took place. PW3 on the other hand has completely denied having any knowledge regarding the accident and further even stated that he did not know why the defacto complainant had filed the complaint. PW4 is the mechanical expert who had examined one Ashok Leyland vehicle bearing no WB 73/7201 in connection with Gangarampur PS case no 03/2009 dated 05/01/2009 and has deposed that the accident was otherwise than on mechanical failure. PW5 is the Investigating Officer who had visited the PO after being endorsed with investigation and prepared rough sketch map with index and examined witnesses and seized the offending vehicle and prepared seizure list and arrested the driver and procured documents of UD case and finally submitted chargesheet after completion of investigation. However, IO being a formal witness could not bring into light whether the vehicle was being driven in a rash and negligent manner.

As such, through the testimony of witnesses, the prosecution could only establish that Ranjit Ghosh had died in an accident and the Ashok Leyland vehicle bearing no WB 73/7201 had met with accident which was not a result of mechanical failure or fault. Though the mechanical expert opined that the accident was due to other than mechanical fault, not one witness testified that the vehicle was being driven in rash or negligent manner or at high speed. Also, not one witness identified the accused as the person who was driving the vehicle and the role of the accused in the accident is itself in doubt.

The prosecution failed to establish the ingredients of section 279 of IPC against the accused and consequently, the provision of section 304A of IPC

is also not attracted. This coupled with the accused not being identified as the person who was driving the vehicle at the time of the accident, leads this court to hold that the prosecution failed to establish the guilt of the accused making the accused entitled to be acquitted from this case.

ORDER

that the accused person namely Nripen Sarkar is found not guilty under section 271(1) of the Bharatiya Nyaya Sanhita as such he is hereby acquitted from this case for the offenses punishable under Section **279/304A** of the Indian Penal Code.

The accused person is hereby discharged from his respective bail bond.

Let all seized alamats, if any, be disposed off in accordance with law.

Dictated & Corrected by me.

Bibek Tamang (WB01235)
Addl. Chief Judicial magistrate,
Gangarampur at Buniadpur.
21.07.2026

Bibek Tamang (WB01235)
Addl. Chief Judicial Magistrate,
Gangarampur at Buniadpur.
21.07.2026