

IN THE COURT OF SAKSHI MENGI JUDICIAL MAGISTRATE
FIRST CLASS, KAITHAL (UID No.HR0710)



Date of Institution	23.02.2022
CNR No.	HRKH03-001988-2022
CIS No.	CHI-191 of 2022
Date of decision	23.07.2026

State Vs. Amit son of Sh. Parveen, resident of Village
Kaul, Tehsil Kalayat, Kaithal.

.....Accused

FIR No. 04 dated 03.01.2022
Under Sections: 279 & 304-A of Indian Penal Code, 1860
Police Station: Titram, District Kaithal.

Present:- Ms. Jahanvi Sharma, Ld. APP for State.
Accused Amit on bail represented by Sh. Mukesh
Deodkheri, Advocate.

JUDGMENT:-

The above named accused has been sent up to face trial
for the commission of offence punishable under Sections 279 and
304-A of Indian Penal Code, 1860 by the Station House Officer,
Police Station, Titram, District Kaithal.

2. The facts of the prosecution case, as emerging from the
report submitted under Section 173 Cr.P.C. and the documents

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annexed therewith, are that the present FIR was registered on the basis of the statement of complainant Sonu son of Nanhu, resident of Village Jakholi, District Kaithal. Complainant stated that on 02.01.2022 at around 4:30 PM, the complainant, Sunil alias Silli son of Roshan alias Lalu and Gurdev son of Satpal residents of Jakholi were going from village Jakholi to Kaithal for some personal work in complainant's Auto bearing No. HR-46E-6043, which was being driven by the complainant. When they reached about 1 km ahead of Mani Ram Filling Station towards Devban, an unknown driver was driving his tempo bearing registration No.HR58B-3432 at high speed, carelessly, and negligently and hit the auto from behind, causing it to overturn. As a result, the complainant and Gurdev Singh fell on the roadside and Sunil alias Silli fell on the road and sustained serious head injuries. The driver of the offending vehicle briefly stopped, looked at the injured and thereafter fled from the spot. The complainant informed the emergency services by dialling No.112, whereby, the ambulance reached at the place of occurrence and took to Sunil @ Silli to Government Hospital, Kaithal where he was declared dead. Alleging that the accident had occurred solely due to the rash and negligent driving of the driver of the offending vehicle, the complainant sought legal action against the culprit.

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3. On the basis of the aforesaid statement, the present FIR under Sections 279 and 304-A of the Indian Penal Code, 1860 was registered, and investigation commenced. During the course of investigation, the Investigating Officer prepared the site plan of the place of occurrence, recorded the statements of the witnesses under Section 161 Cr.P.C., conducted the inquest proceedings, got the post-mortem examination conducted, completed the requisite formalities, and collected other relevant evidence. During investigation, the police obtained the registration particulars of the offending vehicle and found that vehicle No. HR58B-3432 was registered in the name of Surender Singh, resident of Pahadipur, Yamuna Nagar. A notice under Section 133 of the Motor Vehicles Act was served upon the registered owner, who disclosed that at the relevant time the vehicle was being driven by Amit son of Parveen, resident of village Kaur, Tehsil Kalayat, District Kaithal. Thereafter, the accused Amit appeared before the Investigating Officer along with the offending vehicle. During interrogation, he disclosed that he was driving the said vehicle at the time of the accident. His driving licence and the registration certificate of the offending

vehicle were taken into possession, the vehicle was seized, and its mechanical inspection was conducted. The statements of the witnesses were recorded under Section 161 of the Code of Criminal Procedure, 1973, and all other necessary investigative formalities were completed.

4. Upon completion of the investigation, the Investigating Officer found sufficient material to conclude that the accident had occurred due to the rash and negligent driving of accused Amit, resulting in the death of Sunil @ Silli. Accordingly, the final report under Section 173(2) Cr.P.C. was presented before the Court against the accused for the commission of offences punishable under Sections 279 and 304-A of the Indian Penal Code, 1860.

5. Copy of the final report and other accompanied documents supplied to the accused free of cost as envisaged under Section 207 of the Code of Criminal Procedure, 1973. After perusing the police report and hearing the accused on the point of charge, a *prima-facie* case under Sections 279 and 304-A of Indian Penal Code, 1860 was made out against the accused and charge against him, was framed *vide* order dated 11.11.2022. Contents of

the charge were explained to the accused in Hindi to which he pleaded not guilty and claimed trial.

6. To prove its case, the prosecution has examined **Sonu** (complainant/eye-witness) as **PW3**.

7. In order to prove the guilt of the accused, prosecution got examined the following witnesses:-

PW1	ASI Sandeep
PW2	EASI Jasbir Singh
PW3	Sonu

PW-1-ASI Sandeep,- examined by the prosecution is official and formal witness. He deposed that on 03.01.2022, he was posted as SDO duty at the Police Station, Titram. He further stated that he had received a written tehrir on the basis of which he registered a formal FIR Ex.PW1/A and made endorsement on it.

PW-2- EASI Jasbir Singh, examined by the prosecution is also an official and formal witness. He deposed that on 14.01.2022, he mechanically examined vehicles bearing registration No.HR46E-6043 and auto rickshaw bearing registration No.HR58B-3432. Thereafter, he proved mechanical examination report Ex.PW2/A and Ex.PW2/B.

PW-3- Sonu Complainant,- deposed that he has no

knowledge regarding the present case. He further stated that he did not give any statement to the police. He failed to identify the accused present in the Court. Since the witness was not supporting the prosecution case, he was declared hostile and Ld. APP for State was granted the permission to cross-examine him.

During his cross-examination, the witness denied having made the statement Ex.PW3/A to the police. Although he identified his signatures on the application at Point-A he stated that the police has taken his signatures on some blank papers.

8. Thereafter, the Learned APP for the State closed the prosecution evidence vide order dated 08.06.2026.

9. Upon the conclusion of prosecution evidence, all the incriminating materials were appearing against the put to the accused person. Statement of accused under Section 313 Cr.P.C was recorded separately in the form of question answer, wherein the accused denied all the prosecution allegation and pleaded false implication and innocence. Accused opted to lead evidence in his defence. However, no defence evidence was adduced and it was closed vide separate statement of accused of the same date.

10. I have heard the arguments of learned APP for the State as well as learned counsel for the accused and have carefully perused the record. After hearing the arguments from both the sides and appreciating the evidence led on file, this court has come to conclusion that the prosecution has failed to prove the guilt of the accused on file.

11. In order to prove its case, the prosecution examined PW-3 Sonu, the complainant, PW-1 ASI Sandeep and PW-2 EASI Jasbir Singh. However, none of these witnesses supported the prosecution case on material particulars. PW-3 failed to identify the accused as the driver of the offending vehicle and did not support his previous statement made to the police. Likewise, PW-3 also resiled from his earlier versions and failed to identify the accused in Court. Although, PW3 was cross-examined by the learned APP after being declared hostile, nothing favourable to the prosecution could be elicited from his testimony. Consequently, the prosecution failed to establish the identity of the accused as the driver of the offending vehicle.

12. The star witness/eye witness/complainant victim/PW3 himself has not supported the case of the prosecution and there is no

iota of evidence on file to connect the accused with the alleged offences as the prosecution witness has not pointed his finger towards the guilt of the accused.

13. PW-1 ASI Sandeep and PW-2 EASI Jasbir Singh are merely formal witnesses. Their testimonies are confined to proving the registration of the FIR, the mechanical inspection reports, and the investigative steps undertaken during the course of investigation. Neither of them is an eye-witness to the occurrence, nor do their depositions establish the manner in which the accident took place or the identity of the accused as the driver of the offending vehicle. It is well settled that the testimony of formal witnesses, in the absence of substantive evidence establishing the commission of the offence by the accused, cannot by itself form the basis for recording a conviction. Therefore, the evidence of PW-1 and PW-2 does not advance the case of the prosecution on the material aspects necessary to bring home the guilt of the accused.

14. It is basic principle of law that witnesses are eyes and ears of justice and when they do not support the case of the prosecution then the whole story of prosecution becomes doubtful, as in the present case star witness of the prosecution PW3 failed to

support the case of prosecution.

15. The alleged accused cannot be held guilty merely on the basis of surmises and conjunctures when the prosecution has failed to connect the accused with the alleged commission of offence.

16. Our Hon'ble Supreme Court in case ***Suraj Mal Vs. The State (Delhi Administration) AIR 1979 SC 1408*** has laid down *"Where witnesses make two inconsistent statements in their evidence either at one stage or at two stages, the testimony of such witnesses become unreliable and unworthy of credence and in the absence of special circumstances no conviction can be based on the evidence of such witnesses"*.

17. Further, it is well settled proposition of law that prosecution is bound to prove its case beyond reasonable doubt. In case law ***"Raj Kumar Singh @ Raju @ Batya Vs. State of Rajasthan 2013 (6) SCALE 635, Hon'ble Supreme Court"*** has observed that *"Suspicion, however grave it may, cannot take the place of proof, and there is a large difference between something that 'may be' proved and 'will be proved'. In a criminal trial, suspicion no matter how strong, cannot and must not be permitted to take place of proof. This is for the reason, that the*

mental distance between 'may be' and 'must be' is quite large and divides vague conjectures from sure conclusions. In a criminal case, the Court has a duty to ensure that mere conjectures or suspicion do not take the place of legal proof. The large distance between 'may be' true and 'must be' true, must be covered by way of clear, cogent and unimpeachable evidence produced by the prosecution, before an accused is condemned as a convict, and the basis and golden rule must be applied. In such cases, while keeping in mind the distance between 'may be' true and 'must be' true, the Court must maintain the vital distance between conjectures and sure conclusions to be arrived at, on the touchstone of dispassionate judicial scrutiny based upon a complete and comprehensive appreciations of all features of the case, as well as the quality and credibility of the evidence brought on record. The Court must ensure, that miscarriage of justice is avoided and if the facts and circumstances of a case so demand, then the benefit of doubt must be given to the accused, keeping in mind that a reasonable doubt is not an imaginary, trivial or a merely probable doubt, but a fair doubt that is based upon reason and common sense.”

18. On the basis of my aforesaid discussion and observations, this court has come to the view that prosecution, has miserably failed to prove the guilt of accused beyond all reasonable doubt. Resultantly, benefit of doubt is extended to the accused. Accordingly, accused Amit is hereby acquitted from all the charges so levelled

against him. The bail bonds already furnished by the accused is extended for a period of one month from today to secure presence of accused in case of any appeal or revision filed, as the case may be, as per provisions of Section 437-A Cr.P.C. Thereafter, the bail bond and surety bond of accused stands discharged automatically. The case property, if any be disposed of as per law. File be consigned to the record room after due compliance.

Pronounced in open Court:
23.07.2026

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Note: Certified that all the 11 pages of this judgment have been dictated, checked and signed by me.

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Rajni, Stenographer Gr.II

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