

MHAH010013502020



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IN THE SESSIONS COURT, AHMEDNAGAR.

(Presided over by Shri S. B. Kachare, Sessions Judge.)

CRIMINAL APPEAL NO. 52 OF 2020

EXH.23

Sharad Dadabhau Raskar,
Age now 38 Years, Occ. Agri,
R/o. Wagunde Bk., Tal. Parner,
Dist. Ahmednagar.

APPELLANT
(Accused)

Versus

The State of Maharashtra, through-
Officer-in-charge, Supa Police Station,
Ahmednagar.

RESPONDENT

**APPEAL UNDER SECTION 374 OF CR.PC. AGAINST CONVICTION
AND SENTENCE BY THE TRIAL COURT.**

Shri P. P. Kharade, Advocate for Appellant.

Shri V. K. Bhorde, Additional Public Prosecutor for Respondent.

J U D G M E N T

(Delivered on 14.08.2026)

The learned Judicial Magistrate First Class, Parner, Dist. Ahmednagar, by judgment and order dated 11.02.2020 in Summary Criminal Case No. 344/2017, convicted the appellant/accused for the offences punishable under Sections 279 and 304-A of the Indian Penal Code, 1860 (In short 'I. P. Code') and Sections 184

and 134(A)/177 of the Motor Vehicles Act. He was sentenced to suffer rigorous imprisonment for six months with fine of Rs.10,000/- under Section 304-A IPC, simple imprisonment for one month with fine of Rs.500/- under Section 184 of the Motor Vehicles Act, and fine of Rs.100/- under Section 134(A)/177 of the Motor Vehicles Act, with all sentences to run concurrently. He was acquitted of the offence under Section 427 of the I. P. Code. Hence, the present appeal is filed.

(Parties are hereinafter referred as per their original nomenclature)

Prosecution's case :

2. It is the case of the prosecution that, on 02.06.2017 at about 5.00 p.m., informant Kailas Arjun Sonwane was present near the S.T. Stand at Wadegavhan, situated on Nagar-Pune Highway Road, Tal. Parner, Dist. Ahmednagar. At that time, he noticed one Mahindra TUV 300 bearing registration No. MH-16-BH-4465 proceeding from Nagar towards Pune at a high speed. The said vehicle crossed the road divider and dashed against a motorcycle bearing registration No. MH-23-AK-7688, which was proceeding in the opposite direction from Pune towards Nagar. Due to the said accident, the rider of the motorcycle sustained serious injuries. One person present at the spot made a telephone call to the 108 ambulance. Accordingly, the police and ambulance arrived at the spot. The doctor accompanying the ambulance declared that the motorcycle rider had died. The incident was thereafter communicated to the relatives of the deceased through his mobile

phone, and they came to know that the deceased was Babasaheb Goraksha Mhaske, aged about 42 years, resident of Savargaon, Taluka Ashti, District Beed. According to the informant, the accident occurred due to the negligent and rash driving of the driver of the Mahindra TUV 300 bearing registration No. MH-16-BH-4465, resulting in damage to both the vehicles. Accordingly, the informant lodged a report at Supa Police Station.

3. On the basis of the said report, Crime No. I-77/2017 came to be registered at Supa Police Station for the offences punishable under Sections 304-A, 279, 337, 338 and 427 of the I. P. Code and Sections 184 and 134(A)(B) of the Motor Vehicles Act. The investigation was entrusted to P.H.C.1324- S.A. Dhawale. During the course of investigation, the Investigating Officer recorded the statements of the witnesses, prepared the spot panchanama, inquest panchanama, postmortem report and accident form, arrested the accused. On completion of the investigation, finding sufficient evidence against the accused, the Investigating Officer submitted the charge-sheet.

4. The learned trial Court had framed a charge against the accused for having committed the offence punishable under sections 304-A, 279 and 427 of the I. P. Code and sections 184 and 134(A)(B) of the Motor Vehicles Act. Accused pleaded not guilty and claimed to be tried.

5. The prosecution has examined in all four witnesses and relied upon documents. The defense of the accused was that of denial and false implication. However, the accused had not led any

defense evidence.

6. The learned trial Court, after hearing both the sides, comes to the conclusion that the evidence brought on record is sufficient to prove that an accident had taken place due to rash and negligent driving of a Jeep by the accused and, consequently, convicted him for the offence punishable under section 304-A of the I.P. Code and under sections 184 and 134(A)(B) read with 177 of the Motor Vehicles Act, and the accused was acquitted of the offence punishable under section 427 of the I .P. Code vide judgment and order dated 11.02.2020. Being aggrieved by the said judgment and order, the present appeal has been filed on the grounds mentioned in the appeal memo.

7. Heard the learned advocate of the appellant/accused and learned APP for the State. The following points arise for my determination and I have recorded my findings thereon as under :

NO.	<u>POINTS</u>	<u>FINDINGS</u>
1.	Whether the prosecution proves that the accused drove his Jeep in a rash and negligent manner so as to endanger human life or to be likely to cause hurt or injury to any other person ?	... No.
2.	Whether the prosecution proves that due to rash and negligent driving of a Jeep, the accused caused the death of the deceased Babasaheb ?	... No.
3.	Whether the prosecution proves that the accused drove the Jeep in a rash and negligent manner without having regard to the condition	... No.

of the road ?

- | | | |
|----|---|-------------------------|
| 4. | Whether the prosecution proves that after the accident, the accused fled away from the spot without giving information of the accident to the nearest police station and without providing medical aid to the injured ? | ... No. |
| 5. | What order? | ... As per final order. |

REASONS

AS TO POINTS NO.1 TO 4 -

8. The learned advocate of the accused has taken me through the evidence of PW1 to PW4 and the contents of the spot panchnama. According to him, the evidence of PW1 to PW4 is consistent with each other on the fact that there was no opening in the divider at the place of accident. However, the rough sketch map appearing in the spot panchnama at Exh.31 shows an opening in the divider. Therefore, there is no substance in the evidence of PW1 to PW3 that the Jeep crossed the divider and went to the wrong side and gave a dash to the motorcycle coming from the Pune side. The evidence of the investigating officer on this point is contrary to the contents of this spot panchnama; therefore, their evidence does not inspire confidence. On the contrary, from the materials brought on record, it can be seen that there was an opening in the divider, the Jeep had taken a right turn through the divider and crossed almost two-third of the road, at that point of time, the motorcycle coming from the Pune side, was in a high speed, the deceased could not control his motorcycle and dashed against the Jeep from the cleaner

side. Thus, the evidence on record establishes contributory negligence on the part of the deceased/motorcycle rider. The learned trial court had not considered this aspect and had come to the wrong conclusion. The learned advocate of the accused relied upon the case *Shivaji Damodar Karne V/s. The State of Maharashtra* - 2024 BHC (AS) 41802, wherein it is held that in criminal cases involving motor accidents, the prosecution must strictly prove the essential ingredients of the alleged offences. Where the evidence indicates that the victim's own actions or broader circumstantial factors contributed significantly to the accident, the court must evaluate such contributory negligence. If the evidence fails to categorically prove rashness or negligence on the part of the accused, or if relevant contributory admissions are ignored, the conviction cannot be sustained.

9. Per contra, the learned APP for the State has submitted that the learned trial court has assessed the evidence in a proper perspective. There is no illegality or perversity in the order passed by the learned trial court. The finding is based on proper appreciation of evidence which does not require any interference at the hands of this court.

10. I have carefully gone through the evidence of PW1 to PW3. The evidence of these witnesses is consistent on the point that the vehicle of the accused was proceeding from Nagar towards the Pune side, whereas the motorcycle of the deceased was coming from the Pune side. There is a divider in between the road. According to PW1 to PW3, the Jeep crossed the divider, went on the wrong side and gave a dash to the motorcycle coming from the Pune side.

11. PW4 is the investigating officer. He has also stated that after crossing the divider, the Jeep gave a dash to the motorcycle coming from the Pune side. The prosecution has proved the contents of the spot panchnama Exh.31 through the investigating officer PW4.

12. In this case, the spot panchnama Exh.31 assumes considerable significance. It is specifically noted therein that there was an opening in the road divider through which a vehicle could take a turn. From the facts of the case, it appears that the Jeep in question had taken a turn towards its right through the said opening. The physical position of the Jeep on the spot, in fact, further indicates that before the collision, the Jeep had already crossed a substantial portion of the road, approximately more than two-third of the portion.

13. Thus, the testimony of PW1 to PW4 that the Jeep crossed the divider appears to have no substance. Further, their evidence does not reveal that the Jeep suddenly came across the road without any opportunity for the motorcycle rider to notice it. The sketch map annexed with the spot panchnama Exh.31 reveals that the Jeep had substantially crossed the road and had reached a position where the remaining portion of the road was available to the motorcycle coming from the Pune side.

14. The circumstances appearing from the spot panchnama indicate that the motorcycle was being driven at a considerable speed. The fact that the motorcycle could not be brought under control and dashed against the cleaner side of the Jeep is also a relevant circumstance. Had the motorcycle been proceeding at a

reasonable and controlled speed, the rider would have had an opportunity either to reduce the speed, apply the brakes, or take evasive action after noticing the Jeep crossing through the opening in the divider.

15. In the case of *Shivaji vs. State of Maharashtra* (supra), the Hon'ble Supreme Court has held that the court must evaluate the evidence to find out whether the case is of contributory negligence.

16. In the instant case, the spot panchnama shows that the Jeep had already crossed more than two-third of the road. The motorcycle came from the Pune side and, instead of being brought under control, proceeded at such a speed that the rider could not avoid the Jeep and ultimately dashed against its cleaner side. This physical circumstance is inconsistent with the conclusion that the motorcycle rider had no opportunity whatsoever to avoid the collision.

17. The collision with the cleaner side of the Jeep is particularly relevant. It indicates that the Jeep had substantially completed its crossing movement before the impact. Had the Jeep been struck at its front portion while suddenly entering the motorcycle's path, a different inference might have been possible. However, the impact on the cleaner side, coupled with the fact that the Jeep had crossed more than two-third of the road, supports the inference that the motorcycle rider failed to exercise reasonable care and proper control over his vehicle.

18. In this context, it cannot be said that the prosecution has proved rashness or negligence on the part of the accused beyond

reasonable doubt. When the evidence creates a reasonable possibility that the deceased/motorcycle rider himself contributed substantially to the accident, the benefit of doubt must go to the accused.

19. In view of the aforesaid observations, the findings of the learned trial court holding the accused responsible for the accident cannot be sustained. Hence, the points are answered accordingly.

AS TO POINT NO. 5 -

20. In view of my findings on the aforesaid points, the appeal deserves to be allowed. Hence, in answer to this point, I proceed to pass the following order.

ORDER

1. The appeal is allowed.
2. The Judgment and order of conviction and sentence passed by the learned Judicial Magistrate First Class, Parner, Dist. Ahmednagar, in Summary Criminal Case No.344/2017, dated 11.02.2020, are hereby set aside.
3. The appellant/accused is acquitted of the offences punishable under Sections 304-A and 279 of the Indian Penal Code and Sections 184 and 134(A)(B)/177 of the Motor Vehicles Act. He is set at liberty.
4. The earlier bail bonds of the appellant (accused) are cancelled. However, he shall furnish fresh bail bond of Rs. 5,000/- with one solvent surety of like amount vide Section 481 of the Bharatiya Nagarik Suraksha Sanhita, 2023.
5. Fine, if paid by the appellant/accused, shall be refunded to him in accordance with law.

6. Record and proceeding of the trial Court be returned along with copy of this judgment.

(Dictated and pronounced in Open Court).

(S. B. Kachare)

Dt. 14.08.2026.

Sessions Judge, Ahmednagar.

CERTIFICATE FOR UPLOADING TO CIS.

I affirm that the contents of this PDF file judgment are same word to word, as per the original.

Name of Steno	: Sakib N. Pirjade, Steno Gd. II.
Name of Court	: Sessions Court, Ahmednagar.
Judgment date	: 14.08.2026.
Order signed by the P.O.	: 15.08.2026.
Order uploaded on	: 15.08.2026.