

IN THE COURT OF MS. LOVEJINDER KAUR,
SUB DIVISIONAL JUDICIAL MAGISTRATE, BALACHAUR.
(UID NO.PB0437)

CNR No. PBSBA1000037-2020

Case No. CHI/11/2020

Presented on : 24.01.2020

Registered on : 24.01.2020

Decided on : 14.10.2025

STATE

VERSUS

ASHOK KUMAR SON OF RAJPAL, RESIDENT OF VILLAGE
MRADAN, PS DEENA NAGAR, DISTT. GURDASPUR.

.....ACCUSED

***FIR No.87 DATED 01.09.2019
U/S 279, 337, 338, 427 OF IPC.
POLICE STATION:- KATHGARH.***

Present: Sh.Jeewan Kumar, learned APP for the State assisted by
Sh.Sunil Kumar, Advocate, counsel for complainant.
Accused Ashok Kumar on bail represented by Sh.B.S.
Machhal, Advocate.

J U D G M E N T

1. Accused Ashok Kumar has been sent by SHO P.S Kathgarh to face trial for the alleged commission of offence punishable under **Sections 279, 337, 338, 427 of IPC** in **FIR No.87 dated 01.09.2019, registered at Police Station Kathgarh.**

2. In brief, present case has been registered on the basis of statement of Deepak Nayyar son of Ashok Nayyar resident of House No.B13/33, Kotwali Bazar, Hoshiarpur **(hereinafter referred as complainant)** on the assertions that

complainant is resident aforesaid address. On 21/22.08.2019 complainant was returning from Chandigarh to Hoshiarpur in zypsy bearing No.PB07-AL-4773; after crossing the flyover above the Satluj River, when complainant joined the main road, suddenly one canter came from wrong side at high speed, complainant in order to save himself took his jipsy bearig No.PB07-AL-4773 to extreme left but the driver of canter hit the canter in jipsy of complainant from wrong side, resultantly engine and chessi of the jipsy of complainant were badly damaged, besides the same complainant sustained injuries on his left knee, chest, right hip, hands, thumb and other part of body. Complainant was admitted at Sangha Hospital, Ropar. On next day, he was taken by his family members to Hoshiarpur, where he got treatment at Bharaj Hospital, Prabhat Chowk, Hoshiarpur. Complainant further stated that the accident took place on account of rash & negligent driving of the driver of the canter, later on he came to know the number of Canter as PB-65-T-2350 and the same was driven by Ashok Kumar son of Raj Pal, resident of Barada, PS Deen Nagar, Gurdaspur. Hence, complainant requested police authorities to take appropriate action against the accused. On the basis of statement of complainant, present FIR was registered, against accused person. Investigation was set into motion. Statements of the witnesses were recorded under Section 161 Cr.P.C. Accused was apprehended. After completion of investigation, challan under Section 173 Cr.P.C. was presented in the court.

3. Copies of challan along with other documents, as contemplated under Section 207 Cr.P.C. were supplied to the accused person, free of costs.

4. From report U/s 173 (2) of the Code of Criminal Procedure and documents annexed therewith, a prima facie offence U/s 279, 337 and 338 of IPC

was found to be made out against the accused person and charge was framed against accused accordingly, to which accused pleaded not guilty and claimed trial.

5. In order to establish its case, prosecution examined **SI Avtar Singh as PW-1, Senior Constable Rahul Rana as PW-2, Senior Constable Ravi Kumar as PW-3, complainant Deepak Nayar as PW-4, Vishnu Dutt, Data Entry Operator as PW-5, Kapil Dev as PW-6, Harwinder Singh, Data Entry Operator as PW-7, Dr. Rachhpal Singh as PW-8 (name was wrongly typed as Rachhal Singh) and Avtar Singh, Clerk, RTA Office Hoshiarpur as PW-9, Dr. JPS Sangha as PW-10.** Thereafter, evidence of prosecution was closed vide order dated 11.04.2025.

6. On closure of the prosecution evidence, all the incriminating circumstances appearing in the prosecution evidence were put to the accused in his statement under section 313 Cr.P.C. Accused did not examine any witness in his defence and closed his defence evidence vide separate statement dated **14.10.2025.**

7. I have heard arguments advanced by learned APP for the State as well as learned defence counsel and have gone through the record on file very carefully.

8. Accused in present case is charged for commission of offence **U/s 279, 337 and 338 of IPC.** From the case of prosecution, following point of determination arise :-

ACCUSED ASHOK KUMAR WHILE DRIVING CANTER BEARING NO. PB65-T-2350 IN RASH AND NEGLIGENT MANNER ON A PUBLIC WAY, ENDANGERED LIFE AND PERSONAL SAFETY OF OTHERS AND CAUSED HURT AS WELL AS GRIEVOUS HURT TO COMPLAINANT DEEPAK NAYAR.

9. The learned APP for the state vehemently argued that prosecution has successfully proved its case against the accused beyond any reasonable doubt. All the prosecution witnesses have proved the place of occurrence, identification of the accused as well as commission of offence by the accused. Hence, accused be convicted.

10. **On the other hand,** counsel for accused refuted all the assertions made by APP and rigorously contended that the prosecution has miserably failed to prove its case against the accused beyond any reasonable doubt. As there is 10 days unexplained delay in registration of FIR. As per averment of complainant, the accident took place during intervening night of 21/22.08.2019, whereas, the FIR has been registered on 01.09.2019. Learned counsel for accused further submitted that accused was not arrested from the spot on 21/22.08.2019, rather he joined investigation on 03.09.2019. The canter was taken into police custody on 01.09.2019 i.e. 10 days after the accident. Mechanical test report was also conducted on 01.09.2019. The vehicle of complainant i.e. jipsy bearing No.PB07-AL-4773, was released by the police on 25.09.2019 without the permission of the Court. There is no evidence on record as to how the complainant identified the driver of the canter. Site plan prepared by the IO is incorrect. No photographs were taken at the place of occurrence. Also, there are material contradictions in the testimonies of all the prosecution witnesses as to recovery of vehicle, preparation of site plan. Hence accused is liable to be acquitted.

11. After hearing the rival contentions of both learned APP as well as learned counsel for accused and from perusal of the evidence on record,

this Court is of the considered opinion that prosecution has failed to prove on record the guilt of accused beyond shadow of doubt.

12. Perusal of the file reveals that prosecution in order to prove on record that accused drove canter bearing No.PB65-T-2350 in rash and negligent manner, relied upon the statement given by complainant-cum-injured Deepak Nayar son of Ashok Nayar, resident House No.B13/33 examined as PW-4. Complainant in his statement given to the police as well as in FIR stated that he came to know about the canter number and driver of the vehicle later on, however, complainant in his statement given to the police as well as during his examination-in-chief, nowhere deposed as to how and who informed him regarding the offending vehicle as well as the driver of the vehicle. The aforesaid fact gain relevance in view of peculiar circumstances as complainant in his statement given to the police specifically stated that he got unconscious after the accident. The aforesaid facts gain relevance as the FIR was registered on the basis of statement given by the complainant to the police after ten days of occurrence. The accused was not arrested from the spot of occurrence but was arrested on 03.09.2019. The canter was taken into police custody on 01.09.2019, even mechanical test report was done on 01.09.2019 that is ten days after the accident. It will not be out of place to mention over here that the vehicle of complainant i.e. jipsy bearing No.PB07-AL-4773, was released by the police on 25.09.2019, thereafter the mechanical test report was conducted on 01.09.2019. Since, the vehicle was released on 25.09.2019, how could the mechanical test report be prepared on 01.09.2019 i.e. after about 7 days of release of vehicle.

13. In present case, Investigating Officer did not conduct any test identification parade, despite of the fact that accused was not arrested from the spot. Proceeding further, even the complainant during his examination-in-chief did not give the name of the driver of the vehicle. There is delay of 10 unexplained days in registration of FIR. In addition to the same, there are flaws in the investigation conducted by the Investigating Officer. It cannot be assumed that even after ten days, the canter bearing No. PB65-T-2350 was parked at the place of occurrence especially when there is no report that the canter was not in position to drive. In mechanical test report Ex.P15, there are minor damages to the canter.

14. In addition to the same, the case property when produced before the Court was also not intact as complainant during his cross-examination admitted that after release of vehicle from police custody, he got the same repaired without the permission of the Court.

15. Prosecution examined official witnesses i.e. **SI Avtar Singh as PW1**, deposed regarding the investigation conducted by him and proved on record various documents i.e. application to doctor Ex.P1, endorsement Ex.P2, statement Ex.P3, police proceedings Ex.P4, FIR Ex.P5, endorsement Ex.P6, rough site plan Ex.P7, recovery memos Ex.P8 and Ex.P9, arrest memo of accused Ex.P10, memo Ex.P11, photocopy of RC Ex.P12, photocopy of licence Ex.P13, police possession memo Ex.P14, mechanical test reports Ex.P15 and Ex.P16, copy of RC Ex.P17, copy of driving licence Ex.P18, screen report Ex.P19, screen report Ex.P20, screen report Ex.P21, application Ex.P22, report Ex.P23, copy of medical record Ex.P24 and case property MO1 and MO2. **PW2 SC Rahul Rana**, proved on record

documents i.e. FIR Ex.P5, endorsement on ruqa Ex.P6 and arrest memo of accused Ex.P10. **PW3 Senior Ct. Ravi Kumar**, proved on documents i.e. recovery memos Ex.P8 and Ex.P9, memo Ex.P14, reports Ex.P15 and Ex.P16 and memo Ex.P11. **PW5 Vishnu Dutt, Data Entry Operator**, proved on record attested copy of driving licence Ex.PW5/A, certificate Ex.PW5/B, driving licence of Ashok Kumar Ex.18 and report Ex.P23. **PW7 Harwinder Singh, Data Entry Operator**, proved on record screen report Ex.P19, copy of driving licence Ex.P13 and certificate Ex.PW7/A. **PW8 Rachhpal Singh**, proved on record copy of prescription dated 27.08.2019 Ex.PW8/A and report of MRI Ex.PW8/B. **PW9 Avtar Singh, Clerk**, proved on record screen report Ex.PW20 and certificate Ex.PW9/A. **PW10 Dr.JPS Sangha**, who identifies his signatures in prescription slip dated 22.08.2019 and proved attested copy of register Ex.PW10/A. The testimonies of these official witnesses are not sufficient to connect the accused person with the commission of offence.

16. The prosecution is cast with very serious duty to bring on record quality evidence to substantiate its allegation against accused and in the absence thereof, it cannot seek conviction of any person as it becomes difficult for the court to pronounce a person guilty in the absence of fool-proof evidence nailing the guilt by the accused person

17. Hence, taking into account totality of facts and circumstances and material available on record with due care and circumspection, this Court is of the considered opinion that prosecution has not been able to establish its case beyond any reasonable doubt. It is established law that prosecution has to prove its case beyond any reasonable doubts and if there is any doubt then the benefit of the same must go to the accused person.

Therefore, **accused namely Ashok Kumar is acquitted of the charges framed against him on account of benefit of doubt.** Case property, if any, be dealt/disposed of as per rules after the expiry of period of appeal/revision, if any. **File be consigned to the record room.**

Pronounced in open Court:

Dated:14.10.2025

(Pankaj)

Directly Dictated on Computer

(Lovejinder Kaur)

**Sub Divisional Judicial Magistrate,
Balachaur(UID No.PB-0437)**

Present: Sh.Jeewan Kumar, learned APP for the State assisted by Sh.Sunil Kumar, Advocate, counsel for complainant. Accused Ashok Kumar on bail represented by Sh.B.S. Machhal, Advocate.

Accused closed his defence evidence, vide separate statement.

Arguments heard. Vide my separate judgment of even date, **accused** is acquitted of the charges framed against him. File be consigned to the Judicial Record Room, SBS nagar after due compliance.

Dated:14.10.2025

(Pankaj)

Directly Dictated on Computer

(Lovejinder Kaur)

**Sub Divisional Judicial Magistrate,
Balachaur(UID No.PB-0437)**