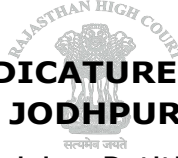




**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**



S.B. Criminal Revision Petition No. 576/2008

Jodha Ram S/o Dhukhaji B/c Meghwal R/o Bhimal Tehsil
Bhinmal, District Jalore.

-----Petitioner

Versus

State Of Rajasthan

-----Respondent

For Petitioner(s)	:	Mr. Vijay Raj Bishnoi
For Respondent(s)	:	Mr. S.S. Rathore, Dy.G.A.

HON'BLE MR. JUSTICE FARJAND ALI

Order

14/07/2025

1. The petitioner was tried for offences punishable under Sections 279, 337, 338, and 304-A of the Indian Penal Code, and was consequently convicted by the learned ACJM, Bhinmal vide judgment dated 24.01.2008 passed in Criminal Case No.95/2003. He was sentenced to six months' simple imprisonment under Section 304-A IPC, two months SI under Sections 337 and 338 IPC, and one month's SI under Section 279 IPC. The learned Addl. Sessions Judge, Bhinmal vide its judgment dated 12.06.2008 passed in Sessions Case No.08/2008 affirmed both the conviction and sentence passed by the learned trial Court. Aggrieved thereby, the petitioner has approached this Court by way of the present revision petition.

2. I have heard the learned counsel for the parties and have carefully perused the judgments rendered by both the courts below, as well as the record of the case. Upon meticulous



evaluation, it appears that the findings of guilt recorded against the petitioner suffer from a manifest error of appreciation, both on factual and legal grounds.

3. In prosecutions arising out of vehicular accident under Sections 279, 337, 338, and 304A IPC, it is a settled principle that the foundational requirement for establishing culpability is the clear and positive identification of the accused as the driver of the vehicle at the relevant time, coupled with credible evidence demonstrating rashness or negligence in the act of driving, which directly resulted in injury or death.

4. In the present case, while the occurrence of the accident, the injuries sustained, and the unfortunate demise of one Tejaram are not in dispute, the prosecution has failed to adduce any convincing or direct evidence to establish that it was the petitioner who was operating the vehicle in a rash or negligent manner at the material time.

4.1. The prosecution examined twelve witnesses in support of its case. PW-1 Tejaram, a constable, is a formal witness who prepared the seizure memo(Ex.P/1); PW-2 Dr. Nemichand Singhvi conducted the post-mortem examination; PW-3 Hanwant Singh is a panchnama witness of the deceased's body and has turned hostile; PW-4 Shanker Lal is of similar evidentiary value and does not advance the prosecution's case; PW-5 Dr. G.M.Solanki is the medical officer who prepared the MLC of victim Raghunath; PW-6 Ganpat Singh is a male nurse who treated the victim in the hospital; PW-7 Vijay Singh is a police official who inspected the



mechanical condition of the vehicle; PW-8 Mishrimal, is a formal witness who received the FIR; and PWs-10, 11, and 12 namely Jotharam, Lakh Singh and Kamlesh are also formal witnesses concerning preparation of certain memos, none of which bear on the act in question. Thus, apart from PW-9 Raghunath, no witness has provided any evidence directly connecting the petitioner with the alleged act of rash or negligent driving.

4.2. Turning to the evidence of PW-9 Raghunath, who is the brother of the deceased and the informant, it is apparent that his testimony too falls short of the requisite evidentiary standard. Nowhere in his deposition has he made any categorical allegation that the petitioner was driving the vehicle either rashly or negligently. The only reference in his examination-in-chief pertains to the petitioner allegedly driving the vehicle at a "high speed"; however, even that assertion is bald and vague, as he admits his inability to specify whether the vehicle was travelling at 50, 60, or 70 kmph. According to him, the vehicle overturned, causing death and injuries to the passengers. However, he neither attributes this occurrence to any act of rashness or negligence nor rules out alternative explanations such as mechanical failure or error of judgment.

4.3. Furthermore, neither in cross-examination nor re-examination has this witness clarified the precise speed of the vehicle or any surrounding circumstances indicative of culpable driving. It is also undisputed that the incident occurred on a public road, not in a densely populated or urban area where speed



restrictions are more stringently enforced. His assertion regarding speed thus remains bald, uncorroborated, and insufficient to sustain a finding of guilt.

4.4. The legal position is trite that mere allegation of high speed, in the absence of attendant circumstances pointing to recklessness or negligence, is not *per se* sufficient to invoke penal liability under Section 279 IPC. For an act to qualify as criminally rash or negligent, there must be a demonstrable breach of duty of care with a foreseeable likelihood of causing harm — a standard not met in the present case. The overturning of a vehicle at a sharp curve, or due to mechanical failure or miscalculation does not automatically attract criminal culpability under Sections 279 or 304A IPC.

5. Regrettably, both the Trial Court and the Appellate Court have failed to appreciate this critical legal distinction, and have erroneously proceeded to convict the petitioner despite the absence of essential ingredients of the alleged offences. The findings of both courts are therefore unsustainable and result in grave miscarriage of justice.

6. In view of the foregoing discussion, the revision petition is allowed. The judgments and orders of conviction and sentence passed by the Trial Court i.e. the learned ACJM, Bhinmal vide order dated 24.01.2008 passed in Criminal Case No.95/2003 and the order dated 12.06.2008 passed by the learned Addl. Sessions Judge, Bhinmal vide in Sessions Case No.08/2008 are hereby quashed and set aside. The petitioner stands acquitted of all



charges. He shall not be required to surrender, and if in custody,
shall be released forthwith.

7. Let record be sent back to the trial Court forthwith.

(FARJAND ALI),J

5-Mamta/-