



2026:DHC:4671



* IN THE HIGH COURT OF DELHI AT NEW DELHI
% *Judgment Reserved on: 19.05.2026*
Judgment pronounced on: 25.05.2026

+ CRL.A. 409/2017

STATE

.....Appellant

Through: Mr. Utkarsh, APP for the State.

versus

BHAGAT SINGH

.....Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. In this appeal filed under Section 378(1) of the Code of Criminal Procedure, 1973 (the Cr.P.C.), the respondent/State in Sl. No. 317/3 of 2012 on the file of the Metropolitan Magistrate, South East, New Delhi, assails the judgment dated 05.03.2016 as per which the sole accused has been acquitted of the offences punishable under Sections 279, 337 and 304A of the Indian Penal Code, 1860 (IPC).



2. The prosecution case is that, on 02.05.2011, at about 11:00 AM at Main Ring Road, Ashram, towards ITO, beneath Barapulla Flyover, Sarai Kale Khan, New Delhi, while PW2 was riding motor cycle bearing Reg. No. UP-14 AV-4661 with his wife and son as pillion riders, the accused, the driver of DTC bus bearing registration no. DL1PC9325 drove the vehicle in a rash and negligent manner so as to endanger human life and personal safety of others and hit the motorcycle as a result of which all three were thrown on to the road causing injuries to them. Mamta, the wife of PW2, succumbed to death due to the seriousness of the injuries sustained. Hence, as per the charge sheet/final report, the accused was alleged to have committed the offences punishable under Sections 279, 337 and 304A IPC.

3. On the basis of Ext. PW2/A FIS/FIR of PW2, given on 02.05.2011, crime no. 156/1999, Sunlight Colony Police Station, was registered for commission of offences punishable under Sections 279 and 304A IPC by Meena Arora, Woman Head-



Constable (W/HC), PW7, Assistant Sub-Inspector (ASI), conducted investigation into the crime and on completion of the same, filed the charge-sheet/final report alleging the commission of the offences punishable under the aforementioned Sections.

4. When the accused was produced before the trial court, all the copies of the prosecution records were furnished to him as contemplated under Section 207 Cr.P.C. The particulars of the offences punishable under Sections 279, 337 and 304A IPC, as contemplated under Section 251 Cr.P.C., was read over and explained to the accused, to which he pleaded not guilty.

5. On behalf of the prosecution, PWs. 1 to 7 were examined and Ext. PW1/A-B, Ext. PW2/A-B, Ext. PW3/A-C, Ext. PW4/A, Ext. PW 5/A-B, Ext. PW6/A, Ext. PW7/A-C, Ex. PA/1 to PA/3, Ext.A-1 to A-5 were marked in support of the case.

6. After the close of the prosecution evidence, the accused was questioned under Section 313(1)(b) Cr.P.C. regarding the incriminating circumstances appearing against him in the evidence



of the prosecution. The accused denied all those circumstances and maintained his innocence. The accused submitted that it is a false case and that the prosecution version is contrary to what actually transpired. According to the accused, his vehicle was moving ahead while the motorcycle of PW2 was behind his bus and was trying to overtake his vehicle. He noticed in the right-side rear-view mirror that the motorcycle had lost its balance following which PW2 fell on the road.

7. No oral or documentary evidence was adduced by the accused.

8. Upon consideration of the oral and documentary evidence on record, and after hearing both sides, the trial court, *vide* the impugned judgement dated 05.03.2016, acquitted the accused under Section 255(1) Cr.P.C. of the offences punishable under Sections 279, 337 and 304A IPC. Aggrieved, the respondent/State has preferred this appeal.



9. The learned Additional Public Prosecutor, appearing on behalf of the State, submitted that the trial court failed to properly appreciate the cogent ocular and medical evidence available on record. The testimony of PW2 clearly establishes that the accident occurred due to the rash and negligent driving of the accused. His testimony stood duly corroborated by Ext. PA II to PA IV MLCs of the injured persons and Ext. PA V Post Mortem Report of the deceased.

10. It was submitted by the learned counsel for the respondent/accused that there is no infirmity in the impugned judgment calling for an interference by this Court.

11. Heard both sides and perused the records.

12. The only point that arises for consideration in the present appeal is whether there is any infirmity in the impugned judgment calling for an interference by this Court.

13. I make a brief reference to the oral and documentary evidence relied on by the prosecution in support of the case. Ext.



PW2/A, the FIS/FIR of PW2 recorded in Hindi roughly translated reads thus:- “...Today morning at around 7:30 AM, I was going to Kalkaji Temple to perform prayers along with my wife and child on motorcycle number UP-14 AV-4661. After performing prayers, we were returning on the said motorcycle to my brother-in-law's place at Chhayarsa village. At around 11:00 AM, when we reached near the S.K. Khan underpass / Flyover, a red-coloured DTC bus, bearing registration number DL-IPC-9325, coming from behind, being driven by its driver (the accused) at a very high speed, rashly and negligently, overtook us while brushing against the front handle of my motorcycle. Due to this, the balance of the motorcycle was lost. My wife's head hit the bus, and she fell onto the road. I and my son also fell down along with the motorcycle. My wife's head hit the road hard, because of which she started bleeding heavily from her head and mouth. My son Gauravint also sustained internal injuries. The bus driver stopped the bus at a short distance ahead. Upon inquiry, his name was found to be



Bhagat Singh, son of Shri Ranveer Singh, resident of Village/Post: JasaurKheri, District: Jhajjar, Haryana. A passing public vehicle (TSR/Auto) was stopped, in which my wife and child were placed along with me. I admitted my wife and child to the Trauma Centre, AIIMS for treatment, where the doctor declared my wife dead. The aforementioned bus driver, by driving his bus rashly, negligently, and at a high speed, has caused injuries to my wife Mamta and my boy Gauravint, aged about 10 months. Legal action should be taken against the DTC Bus Driver.”

(Emphasis supplied)

14. PW2, when examined, deposed that on 02.05.2011, he along with his wife Mamta and their 10 month old son was travelling on motorcycle bearing no. UP 14AV 4661 from the house of his brother-in-law at Ghaziabad towards Kalkaji Mandir. By about 11:00 AM, when they reached Main Ring Road, Ashram towards ITO near Barapula Flyover, a red colour DTC bus bearing registration no. DL 1PC 9325 came from behind at a very high



speed and in a rash and negligent manner and struck against the left side handle of his motorcycle, due to which, the motorcycle lost balance causing all of them to fall on the road. In the course of the fall, his wife's head struck against the body of the bus. PW2 further deposed that his wife sustained a serious injury and she started bleeding profusely from her forehead. The driver of the bus had stopped his vehicle and so he saw the driver. Thereafter, someone informed the police. He shifted his wife and son to AIIMS Hospital in a three-seater auto rickshaw (TSR), where his wife was declared dead.

14.1. PW2 in his cross examination deposed that there was no heavy traffic on the Ring Road at the time of the incident and that he was driving the motorcycle at a speed of about 40 kmph. PW2 denied the suggestion that the offending bus was going much ahead of him and that some other vehicle had caused the accident. He also denied the suggestion that the accused had come to their help and had shifted them to the roadside.



15. PW1, Motor Vehicle Inspector, produced the Mechanical inspection report of the offending vehicle and the motorcycle of PW2 which are Ext. PW1/A and Ext. PW1/B respectively.

16. The offence under Section 279 IPC is made out when a person drives or rides any vehicle 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 person. Section 337 IPC says that whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, is liable to be punished. The offence under Section 304A IPC is attracted when death of any person is caused by doing any rash or negligent act not amounting to culpable homicide. To bring a case of homicide under Section 304A IPC, the following conditions must exist, namely, (i) there must be death of the person in question; (ii) the accused must have caused such death; and (iii) that such act of the accused was rash or negligent and that it does



not amount to culpable homicide. The section deals with homicidal death by rash or negligent act.

17. As held in **Naresh Giri v. State of Madhya Pradesh (2008) 1 SCC 791**, Section 304A IPC applies to cases where there is no intention to cause death and no knowledge that the act done in all probability will cause death. The provision is directed at offences outside the range of Sections 299 and 300 IPC. Section 304A IPC applies only to such acts which are rash and negligent and are directly the cause of the death of another person. Negligence and rashness are essential elements under Section 304A IPC.

18. The criminality as far as rash acts are concerned, lies in running the risk of doing such an act with recklessness or indifference as to the consequences. Criminal negligence occurs when there is gross and culpable neglect or failure to exercise the required care and precaution to guard against injury, either to the public generally or to an individual in particular, which, having



regard to all the circumstances, was the imperative duty of the accused person to have adopted. In other words, negligence is the omission to do something which a reasonable man, guided upon the considerations which ordinarily regulate the conduct of human affairs, would do, or, the doing of something which a prudent and reasonable man would not do.

19. Having thus reminded myself the law on the point, I will now consider whether the evidence on record is sufficient to find the accused guilty of the offences charged against him. Ext. PW7/B Site plan is seen prepared by PW7, the Investigation Officer (IO). The note given at the bottom of the plan in Hindi roughly translated reads thus:- *“Mark A shows the place where the driver of the DTC bus hit the side of the motorcycle, due to which the woman sitting behind on the motorcycle fell onto the road and where blood was present. Mark B shows the place where the motorcycle was found parked near the pavement. Mark C is the spot where the DTC Bus was found parked after the accident. The*



total width of the road going from Ashram to ITO is 40 feet. The distance of the accident spot from the central divider is 28 feet, and the distance of the accident spot from the pavement is 12 feet. The DTC Bus and motorcycle were both found parked near the pavement. From the spot of the accident, the distance of the bus was 23 feet and the distance of the motorcycle was 7 feet”.

20. Therefore, going by the site plan, point ① shown in the site plan is the place where the accident took place. But point ① in the site plan has been shown inside two dotted lines, which portion is noted as ‘*ganda nala*’. Therefore, is point ① inside the *ganda nala*? Neither PW2, the injured, nor the prosecution has such a case.

21. Further, as per the site plan, the width of the road running in the north-south direction is 40 feet. The incident is alleged to have taken place 12 feet away from the pavement.

This, I believe, is point ① in the site plan. With this in mind, I will refer to the evidence of PW2. In Ext. PW2/A FIS/FIR, the DTC



bus driven by the accused came from behind at a very high speed in a rash and negligent manner, overtook his motorcycle and in the process of overtaking the motorcycle, brushed against the front handle of the motorcycle. If that be so, the accused must have overtaken motorcycle being ridden by PW2 through the right side as PW2 has no case that the accused had attempted to overtake his vehicle from the wrong side or from the left side. If the overtaking was done from the right side, then it must have been the right handle of the motorcycle that had brushed against the bus. However, PW2 in the box has an entirely different case. He deposed that on the said day, the bus driven by the accused came from behind at a very high speed and in a rash and negligent manner and brushed against the left side handle of his motorcycle due to which he lost balance and all of them had fallen on the ground. If the appellant/accused had tried to overtake the bus through the right side as stated by PW2 in the FIS/FIR, I fail to understand how the left handle of the motorcycle brushed against



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the bus resulting in the motorcycle losing its balance. Apart from the testimony of PW2, there are no other eye witnesses to the incident. The site plan as well as the testimony of PW2 is insufficient to find the accused/ respondent guilty of the offences charged against him.

22. In such circumstances, I find that the trial court was justified in acquitting the accused. I find no infirmity calling for interference by this Court.

23. In the result, the appeal is dismissed.

24. Application(s), if any, pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

MAY 25, 2026

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