* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of Decision: 20.11.2025

\+ **CRL.A. 1426/2019 & CRL.M.A. 480/2017**

STATE (NCT OF DELHI) .....Appellant

Through: Mr. Pradeep Gahalot, APP for State
SI Mukul Yadav, PS keshav Puram

versus

ANANT RAM .....Respondent

Through: Mr. Gagan Sharma and Mr. Shan, Advocates.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of the present appeal filed under Section 378(3) Cr.P.C, the appellant/State seeks to set aside the judgement dated 13.05.2016 passed by MM-04(North West), Tis Hazari Courts, Delhi, in proceedings arising out of FIR No. 226/09 registered at P.S. Keshav Puram, Delhi, whereby the Trial Court acquitted the Respondent under Sections 279/304A IPC & 3/181 MV Act.

2. Briefly put, the case of the prosecution is that on 01.08.2009 at about 1:30 PM, at A1–C1 Block, T-Point, Keshav Puram, C-1 Block Main Road, Delhi, within the jurisdiction of P.S. Keshav Puram, the appellant was allegedly driving a TATA 407 tempo bearing registration No. DL1K 1777 without a valid driving licence and in a rash and negligent manner so as to

endanger human life and the personal safety of others. It is alleged that while driving the said vehicle, he hit one *Mohd. Javed* from behind, causing injuries which resulted in his death, not amounting to culpable homicide. After completion of investigation, a chargesheet for offences punishable under Sections 279/304A IPC and Section 3/181 of the Motor Vehicles Act was filed against the accused Anant Ram, and under Section 5/180 MV Act was filed against Gurdeep Singh, the registered owner of the said TATA 407.

3. The prosecution examined 5 witnesses in support of its case. The material witnesses included an eyewitness, the son of the victim, *Mohd Iqbal*, examined as PW-2. The remaining witnesses were formal in nature and deposed with respect to various aspects of the investigation.

4. Learned APP for State submits that the learned Trial Court erred in acquitting the respondent by placing undue emphasis on minor contradictions in the testimonies of PW-2. He further submits that the Trial Court should have appreciated the testimony in its entirety, especially because throughout his examination-in-chief, PW-2 consistently maintained that the respondent was the one driving the said vehicle and gave a coherent account of the occurrence in material particulars namely, that the vehicle was being driven negligently and rashly which caused the injuries and death in question.

5. *Per contra,* learned counsel for the respondent supports the impugned judgment and submits that the contradictions highlighted by the Trial Court are not minor or peripheral, but material, going to the very root and genesis of the incident. It is argued that PW-2's examination-in-chief and cross-examination suffer from serious inconsistencies, particularly with respect to

the identity of the person driving the offending vehicle and the manner in which it was driven. In cross-examination, PW-2 deposed that he could not say whether the respondent was driving the vehicle at all, nor could he state whether it was being driven rashly or negligently, thereby contradicting his earlier version in material particulars. These contradictions, when viewed cumulatively and in the context of PW-2 being the sole eyewitness, cast substantial and reasonable doubt on the reliability and credibility of his testimony

6. I have considered the submissions advanced by the learned APP for the State, as well as the learned counsel appearing for the respondent and examined the evidence on record.

7. The son of the deceased, *Mohd. Iqbal*, was examined as PW-2. He deposed that in August 2009 he was residing at Lawrence Road, Keshav Puram and that on 01.08.2009 at about 1:30 PM, he along with his father was proceeding from their *jhuggi* at Lawrence Road to Tri Nagar Chowk to meet one *Naeem*. In the meantime, a Tata 407 bearing registration No. DL 1LK 1777 approached from behind at a very high speed and in a rash and negligent manner and struck his father from behind, causing him to fall on the road, whereupon the tempo ran over his body. PW-2 further stated that the driver initially stopped the vehicle but attempted to flee; however, PW-2 apprehended him, and later came to know his name as *Anant Ram*. PW-2 also correctly identified the accused in court as the person who, according to him, was driving the offending tempo in a rash and negligent manner. He further deposed that his father died on the spot, that the police arrived about an hour later, and that his statement Ex.PW2/A was recorded, and stated that he identified the body of his father the next day vide Ex.PW2/D. He also

confirmed that the tempo shown in the photographs Ex.P1 to P4 was the same vehicle involved in the accident and reiterated that the accident occurred due to the rash and negligent driving of the appellant.

Initially, this witness was not cross-examined by the defence despite opportunity. However, on an application under Section 311 Cr.P.C., the accused was permitted to cross-examine PW-2. In cross-examination, PW-2 stated that he did not remember the exact date of the incident; that he could not say whether the accused was driving rashly or negligently; that he did not remember from which side the accused alighted from the vehicle; and significantly, that he could not say whether the accused present in court was actually driving the tempo as he had not seen him driving it. He clarified that he had only seen the accused alighting from the vehicle. The Learned APP re-examined PW-2 and confronted him with his earlier testimony, pointing out that in his examination-in-chief he had stated that the accused was driving the offending vehicle at a high speed in a rash manner, that he had attempted to run away leaving the vehicle behind, and that he had apprehended him. PW-2, however, responded that he did not know what he had stated in his examination-in-chief and that whatever he was stating in court during cross-examination was true.

8. The case of the prosecution rests entirely on the testimony of PW-2. However, his testimony contains materially contradictory statements which go to the root of the prosecution's case. The trial court rightly disbelieved his testimony, as his version in cross-examination completely undermined and contradicted his examination-in-chief, rendering him an unreliable and untrustworthy witness. In the absence of any other independent eyewitness or corroborative evidence to establish either the identity of the accused as

the driver of the offending vehicle or the element of rash and negligent driving, the prosecution failed to prove the charges against the appellant.

9. At this stage, it is also apposite to note that an order of acquittal carries with it a double presumption of innocence and the benefit of doubt extended to the respondent in the present case is not liable to be interfered with unless the Trial Court's view is perverse. The law pertaining to double presumption of innocence operating in favour of an accused at the appellate stage, after his acquittal by the Trial Court, is settled. A gainful reference may be made to the Supreme Court's decision in Ravi Sharma v. State (NCT of Delhi), reported as (2022) 8 SCC 536, wherein it was observed, as hereunder:

> *"8. ...We would like to quote the relevant portion of a recent judgment of this Court in Jafarudheen v. State of Kerala [Jafarudheen v. State of Kerala, (2022) 8 SCC 440] as follows : (SCC p. 454, para 25)*
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> > *"25. While dealing with an appeal against acquittal by invoking Section 378CrPC, the appellate court has to consider whether the trial court's view can be termed as a possible one, particularly when evidence on record has been analysed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the appellate court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.""*

10. At this juncture, it is also deemed apposite to refer to the decision of the Supreme Court in Anwar Ali v. State of H.P., reported as (2020) 10 SCC 166, wherein it has been categorically held that the principles of double presumption of innocence and benefit of doubt should ordinarily operate in favour of the accused in an appeal to an acquittal. The relevant portions are

produced hereinunder:

> *"**14.1.** In Babu [Babu v. State of Kerala, (2010) 9 SCC 189 : (2010) 3 SCC (Cri) 1179] , this Court had reiterated the principles to be followed in an appeal against acquittal under Section 378 CrPC. In paras 12 to 19, it is observed and held as under: (SCC pp. 196-99)*
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> *"...*
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> *13. In Sheo Swarup v. King Emperor [Sheo Swarup v. King Emperor, 1934 SCC OnLine PC 42 : (1933-34) 61 IA 398 : AIR 1934 PC 227 (2)] , the Privy Council observed as under: (SCC Online PC: IA p. 404)*
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> *'... the High Court should and will always give proper weight and consideration to such matters as (1) the views of the trial Judge as to the credibility of the witnesses; (2) the presumption of innocence in favour of the accused, a presumption certainly not weakened by the fact that he has been acquitted at his trial; (3) the right of the accused to the benefit of any doubt; and (4) the slowness of an appellate court in disturbing a finding of fact arrived at by a Judge who had the advantage of seeing the witnesses.'*
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> *...*
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> *(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.*
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> *(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.'*

11. Considering all the aforesaid, this Court is of the considered view that the contentions put forth by the learned APP for the State are not convincing enough to warrant setting aside of the impugned judgment, and the same is accordingly upheld.

12. The present appeal is dismissed alongwith pending application.

13. A copy of this judgement be communicated to the Trial Court.

MANOJ KUMAR OHRI
(JUDGE)

NOVEMBER 20, 2025
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