



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

% *Judgment Reserved on: 15.07.2026*
Judgment pronounced on: 20.07.2026

+ **CRL.A. 804/2017**

STATE (GOVT OF NCT OF DELHI)Appellant

Through: Ms. Manjeet Arya, APP for the State.

versus

RAM PRAKASHRespondent

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. 308/02 on the file of the Metropolitan Magistrate, Patiala House Court, New Delhi, assails the judgment dated 28.01.2016 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 (the IPC).

2. The prosecution case is that, on 04.07.2011 at about 11:00 PM, Vijay Lal, the deceased, was riding motorcycle bearing registration no. DL3SAW-5281 with PW3 as pillion rider. When they reached under the flyover at Moti Bagh, New Delhi, the accused, riding motor cycle bearing registration no. DL12SA-1256 in a rash and negligent manner so as to endanger human life and personal safety of others, dashed against their motor cycle as a result of which all three of them fell down resulting in injuries. Vijay Lal, sustained grievous injuries and due to the seriousness of the injuries sustained, he succumbed to death. Hence, as per the chargesheet/final report, the accused is alleged to have committed the offences punishable under Sections 279, 337 and 304A IPC.



3. On the basis of Ext. PW3/A FIS/FIR of PW3, given on 05.07.2011, crime no. 108/2011, South Campus Police Station, was registered by CW3 Ishwer Singh, Head Constable (HC). PW10, Sub-Inspector (SI), conducted the investigation into the crime and on completion of the same, filed the chargesheet/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 10 were examined and Ext. PW1/A, Ext. PW2/A, Ext. PW3/A-C, Ext. PW3/D-H, Ext. PW4/A, Ext. PW4/E, Ext. PW5/A-B, Ext. PW6/A,



Ext. PW7/A, Ext. PW8/A-D, Ext. PW9/A-D 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, he was not driving in a rash and negligent manner. In fact, it was the deceased who was riding rashly and negligently. Both the deceased and PW3 were also drunk. The deceased had hit his motor cycle, following which he fell down and also sustained serious injuries.

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 28.01.2016, 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 PW3 clearly establishes that the accident occurred due to the rash and negligent driving of the accused. His testimony stood duly supported by Ext. PW7/A and Ext. PW8/C MLCs of PW3 and Ext. PW6/A Post Mortem Report of the deceased.

10. There was no representation for the respondent as the lawyers were on strike. On the last hearing date also, there was no



representation. Hence, relying on the dictum in **Bani Singh & Ors. vs. State of U.P., (1996) 4 SCC 720**, I proceed to consider the appeal on merits after going through the entire records in the case.

11. 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.

12. I make a brief reference to the oral and documentary evidence relied on by the prosecution in support of the case. Ext. PW3/A, the FIS/FIR of PW3 recorded on 05.07.2011 in Hindi, translated reads thus:- “...Yesterday, on 04.07.2011, I along with my friend Vijay Lal (the deceased), were riding on his motorcycle bearing registration no. DL3SAW-5281 (Bajaj CT-100), heading towards our home in Shakurpur from the direction of Shanti Path via Moti Bagh. At around 11:00 PM, when we reached underneath the Moti Bagh flyover, a motorcycle bearing registration no.



DL12SA-1256 came from the direction of RTR Marg, driving his motorcycle at a high speed, rashly, and negligently, and hit the side of our motorcycle with immense force. As a result, both of us, as well as the aforementioned rider, fell down right there along with our motorcycles. My friend and I sustained injuries. Upon subsequent enquiry, the name and address of the rider was found to be Ram Prakash (the accused), son of Ram Aasre, resident of N-47, Gali No.3, Saadat Pur Extension. Following the incident the police was informed, after which a PCR vehicle arrived at the spot and took us to Safdarjung Hospital. The rider of the motorcycle bearing registration number DL12SA-1256, Ram Prakash, by driving his motorcycle at a high speed, rashly, and negligently, has caused injuries to me and my friend. Legal action should be taken against him.”

13. PW3, when examined, deposed that on the night of 04.07.2011-05.07.2011, he was returning home on motorcycle



bearing registration no. DL3SAW-5218, of his friend and neighbour, Vijay Lal (the deceased). At approximately 11:00 PM, when they reached under the flyover at Moti Bagh, motorcycle bearing registration no. DL12SA-1256 ridden by the accused in great speed and in a rash and negligent manner, hit their vehicle. All of them fell down and sustained injuries. Someone dialled 100 number and a PCR vehicle reached the spot and took them to Safdarjung Hospital. The Investigating Officer (IO) recorded his Ext. PW3/A FIS/FIR at the hospital. PW3 further deposed that his friend, Vijay Lal, passed away in the hospital due to the seriousness of the injuries sustained.

13.1. PW3 in his cross examination deposed that the traffic signal light situated at the place of occurrence was functional. The speed of their vehicle was around 40 KMPH. The offending vehicle dashed against the left side of their bike towards the middle while they were taking a right turn. He as well as Vijay Lal



were conscious and oriented after the incident. He did not see any visible injuries on the body of Vijay Lal. He had sustained a cut injury on his left eyebrow from which blood was oozing. PW3 admitted that the accused was also injured, and that blood was oozing from the latter's face.

14. PW4, Constable, South Campus Police Station, deposed that on 04.07.2011 on receiving a call he along with Head Constable Mahinder (PW8) proceeded to the place of occurrence, where they found both the motorcycles involved in the incident. The injured were not there. In the meantime, PW8 received Ext. PW8/B DD entry no. 5A relating to the MLC of the injured, pursuant to which, PW8 went to Safdarjung Hospital, while he remained at the scene. At about 02:20 AM, PW8 returned to the spot along with the accused, by which time PW8 had already prepared Ext. PW4/A *rukka* based on the statement given by PW3. Ext. PW4/A was handed over to him for registration of the FIR.



PW4 further deposed that at about 03:45 AM, PW8 arrested the accused *vide* Ext. PW3/B arrest memo.

15. PW8 Head Constable, South Campus police station, the Investigating Officer (IO), spoke about the various steps taken during the course of investigation.

16. The Appellate Court under Section 386(1) Cr.P.C, may in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused may be retried or committed for trial, as the case may be, or find the accused guilty and pass sentence on him according to law. The general principles regarding the powers of the appellate court while dealing with an appeal against acquittal are:- firstly, the appellate court has the power to review, re-appreciate and reconsider the evidence upon which the order of acquittal is founded. Secondly, the Code puts no limitation, restriction or condition on exercise of such power and an appellate court on the



evidence before it, may reach its own conclusion, both on questions of fact and of law. Thirdly, various expressions, such as, “substantial and compelling reasons”, “good and sufficient grounds”, “very strong circumstances”, “distorted conclusions”, “glaring mistakes”, etc. are not intended to curtail the extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of “flourishes of language” to emphasise the reluctance of an appellate court to interfere with an acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion. Fourthly, an appellate court, however, must bear in mind that in the case of acquittal, there is a double presumption in favour of the accused, that is, (i) 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, (ii) the accused having secured his



acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court. Lastly, 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.(See **Babu Sahebogouda Rudragoudar and others vs. State of Karnataka (2024) 8 SCC 149, Rajesh Prasad vs. State of Bihar (2022) 3 SCC 471, Chandrappa vs. State of Karnataka, (2007) 4 SCC 415**).

16.1. As observed by the Apex court in **Ram Kumar vs. State of Haryana, 1995 Supp (1) SCC 248**, the powers of the High Court in an appeal from order of acquittal to reassess the evidence and reach its own conclusions under Sections 378 and 379 Cr.P.C. are as extensive as in any appeal against the order of conviction. But as a rule of prudence, it is desirable that the High Court should give proper weight and consideration to the view of the trial court with regard to the credibility of the witness, the



presumption of innocence in favour of the accused, the right of accused to the benefit of any doubt and the slowness of appellate court in reversing a finding of fact arrived at by a judge who had the advantage of seeing the witness. If the main grounds on which the trial court has based its order acquitting the accused, are reasonable and plausible, and the same cannot entirely and effectively be dislodged or demolished, the High Court should not disturb the order of acquittal.

17. The Charge against the appellant/accused is that he has committed the offences punishable under Sections 279, 337 and 304A IPC. 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.

17.1. As held in **Naresh Giri vs. 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.

17.2. 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.

18. Keeping the aforesaid aspects in mind, I will now consider whether the evidence on record is sufficient to find the



accused guilty of the offences charged against him. PW3, the injured and the only eye witness has a case that the accused was driving the vehicle rashly and negligently and in great speed. He does not explain in what manner, the accused was negligent. As held in **State of Karnataka vs. Satish (1998) 8 SCC 493**, there can be no doubt that vehicles are intended to be driven in speed. Merely because the vehicle is being driven at a high speed does not show that the driver was rash or negligent by itself. “High speed” or “over speed” as it is often referred to, is a relative term. It is for the prosecution to bring on record materials to establish as to what is meant by “high speed” in the facts and circumstances of the case. In a criminal trial, the burden of proving everything essential to the establishment of the charge against an accused always rests on the prosecution and there is a presumption of innocence in favour of the accused until the contrary is proved. Criminality is not to be presumed, subject of course to some statutory exceptions.



In the absence of any material(s) on record, no presumption of “rashness” or “negligence” could be drawn against the accused by invoking the maxim “*res ipsa loquitur*”.

19. Apart from PW3, there are no other eye witnesses to the incident. The site plan marked as Ext. PW8/D is also of no help to the prosecution. As per the plan ‘A’ is stated to be the place where the incident is alleged to have taken place. The width of the road has not been given in the plan. PW3 deposed that there was a traffic signal light at the scene of incident which was functional. The materials on record do not show whether either of the motorcyclist had jumped the light. There is absolutely no material(s) to conclude regarding the rashness or negligence of the accused.



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

21. In the result, the appeal *sans* merit is dismissed.

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

**CHANDRASEKHARAN SUDHA
(JUDGE)**

JULY 20, 2026

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