



2026:DHC:6527



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

% **Judgment Reserved on: 07.08.2026**
Judgment Pronounced on: 12.08.2026

CNR No. DLHC010400472019

+ **CRL.A. 1143/2019**

STATE (NCT OF DELHI)

.....Appellant

Through: **Ms. Manjeet Arya, APP for State with
SI Pradeep Kumar, P.S. Rajouri
Garden.**

versus

JAGDISH

.....Respondent

Through: **Ms. Nidhi Mohan Parashar, Advocate
with Ms. Arpita Pande, Advocate
(Amicus Curiae)**

CNR No. DLHC010400482019

+ **CRL.A. 1144/2019**

RAMPHAL DUGGAL

.....Appellant

Through:

versus

STATE & ANR

.....Respondents

Through: **Ms. Manjeet Arya, APP for State with
SI Pradeep Kumar, P.S. Rajouri
Garden.**

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. In these appeals filed under Section 378 of the
Code of Criminal Procedure, 1973 (the Cr.P.C.), the



respondent/State and PW5, the father of the deceased, in unique ID No. 63298/16 on the file of the Metropolitan Magistrate, Tis Hazari, New Delhi, assails the judgment dated 08.12.2017 as per which the sole accused has been acquitted of the offences punishable under Sections 279 and 304A of the Indian Penal Code, 1860 (the IPC).

2. The prosecution case is that, on 07.07.2003 at 06:15 P.M., deceased Ravinder Duggal, son of PW5 was riding motorcycle bearing registration no. DL 8ST 6334 through the road towards Punjabi Bagh near the ring road flyover and when he reached in front of Rajdhani College, a blue line bus bearing registration no. DL 1P A-7837 driven by the accused came from behind and rammed his motorcycle as a result of which the deceased was thrown on to the road, pursuant to which he was run over by the bus resulting in his death. The accused is alleged to have been driving the bus in a manner so rash and negligent so as to endanger human life and personal safety resulting in the



death of the rider of the aforesaid motorcycle. Hence, as per the charge sheet/final report, the accused is alleged to have committed the offences punishable under Sections 279 IPC and 304A IPC.

3. On the basis of Ext. PW10/A FIS/FIR of PW10, given on 07.07.2003, crime no. 504/2003, Rajouri Garden Police Station, was registered for commission of offences punishable under Sections 279 and 304A IPC by PW3, Head Constable (HC). PW11, 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 IPC 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 11 were examined and Ext. PW2/A-B, Ext. PW3/A-B, Ext. PW4/A-E, Ext. PW 5/A, Ext. PW6/A-B, Ext. PW7/A-B, Ext. PW8/A, Ext. PW9/A, Ext. PW10/A, Ext. PW11/A-C and Ext. P1 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 he has been falsely implicated in the case and that he was not the driver of the offending bus.

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 08.12.2017, acquitted the accused under Section 255(1) Cr.P.C. of the offences punishable under Sections 279 IPC and 304A IPC. Aggrieved, the respondent/State and PW5, the father of the deceased, have preferred these appeals.

9. The learned Additional Public Prosecutor, appearing on behalf of the State submitted that the finding of the trial court acquitting the accused is contrary to the materials available on record. The trial court failed to appreciate the cogent ocular and medical evidence available on record and further has failed to appreciate the legal maxim *res ipsa loquitur* as a rule of evidence for determining the onus of proof. The testimony of PW10, the eye witness, who remained consistent on all material particulars throughout the course of the trial,



inspires confidence and is sufficient to establish the prosecution case.

10. There was no representation for the appellant in CRL.A.1144/2019. 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. 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. It was further submitted that the evidence adduced by the prosecution does not satisfactorily prove the essential ingredients of the offences alleged, and the materials on record are insufficient to conclusively attribute rashness or negligence on part of the accused. Reliance was placed on the dictums in **Abdul Subhan v. State (NCT of Delhi), 2006 SCC OnLine Del 1132** and



Kishore Chand Joshi v. State, 2018 SCC OnLine Del 12337 to canvass the aforesaid ground.

12. Heard both sides and perused the records.

13. 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.

14. I make a brief reference to the oral and documentary evidence relied on by the prosecution in support of the case. Ext. PW10/A FIS/FIR of PW10 recorded on 07.07.2003 in Hindi, translated reads thus:-“...*I am deployed as a Constable at Chowki Raghuvir Nagar. Today, I was on patrol duty near Ring Road from 3:00 PM to (not legible) Around 6:15 PM, I was present at the road heading towards Punjabi Bagh near the Ring Road Flyover while on patrol duty when a Motorcycle No. DL 8ST 6334 coming from Raja Garden passed through the road heading towards Punjabi Bagh along the flyover. A blue line (bus) No. DL 1P A 7837 driver, driving*



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negligently, rushed behind the aforesaid Motorcycle and rammed it. Upon collision, the motorcycle driver was thrown to the ground and the bus driver ran over him. The motorcycle driver died on the spot. Upon enquiry, the name of the deceased motorcycle driver was learnt to be Ravinder Duggal, S/o Ramphal Duggal, R/o 24A, Sector-16, Rohini. The bus driver abandoned the bus and fled the scene. I can identify the bus driver on sight. This accident was caused due to the negligent speeding of the bus driver behind the wheel of Bus No. DL 1PA 7837. Legal action may kindly be taken against him.”

15. PW10, Constable, Rajouri Garden Police Station when examined deposed that on 07.07.2003, he was on patrolling duty from 3:00 PM to 10:00 PM in the Punjabi Bagh, Ring Road area. At about 6:15 PM, he noticed a Hero Honda motorcycle bearing registration No. DL 8ST 6334 and a Blue Line bus bearing registration No. DL 1LY 7837 proceeding from Rajouri Garden towards Punjabi Bagh. When the motorcycle



reached near the flyover at Rajouri Garden, the bus rammed the motorcycle from behind and due to the impact, the motorcyclist was thrown on to the road. The bus ran over him. The driver of the offending bus fled from the spot immediately after the incident. He informed ASI Om Prakash (PW11) about the incident, who reached the spot along with another constable. Photographs of the scene were taken by PW11. PW10 identified the accused present in the Court as the driver of the offending bus.

15.1. PW10, in his cross examination, admitted that the accused was never arrested in his presence. He admitted that he had not disclosed, during investigation the colour of the clothes worn by the accused or any identification marks of the accused.

16. PW11 ASI, Rajaouri Garden police station, the Investigating Officer (IO), deposed regarding the various steps taken during the course of investigation. On 07.07.2003, upon receipt of DD No. 23 regarding the incident in this case, he



proceeded to the spot along with Constable Ramesh (PW2). When he reached the scene of occurrence, PW10 was present. The offending bus bearing registration no. DL 1PA 7837 and a Hero Honda motorcycle bearing registration No. DL 8ST 6334 was found on the road. He found the deceased lying between the front and rear wheels of the bus. The deceased was sent to DDU Hospital, Hari Nagar. He seized the offending bus *vide* Ext. PW2/A seizure memo and the motorcycle *vide* Ext. PW2/B seizure memo. He also prepared Ext. PW11/B site plan at the instance of PW10.

17. PW6, Automobile Engineer, deposed that he had inspected both the bus bearing registration no. DL1PA7837 and the motorcycle bearing No. DL8ST6334 at the request of the IO and had issued Ext. PW6/A and Ext. PW6/B reports. According to PW6, he had conducted road test of the vehicles inside the campus of the Police Station and not on the road.



18. To bring home an offence under the Section 279 IPC, the prosecution has to establish that the accused had driven the vehicle on a 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. Further, in order to attract Section 304A IPC, the prosecution has to establish that the death of a person was caused by such rash or negligent act not amounting to culpable homicide. Therefore, the prosecution is required to prove: (i) death of the person in question; (ii) the accused caused such death; and (iii) that such act of the accused was rash or negligent and that it does not amount to culpable homicide.

19. In **Naresh Giri v. State of Madhya Pradesh (2008) 1 SCC 791**, it has been held that Section 304A IPC applies to cases where there is no intention to cause death and no knowledge that the act done in all probability would 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.

20. 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 [See **Alister Anthony Pareira Vs. State of Maharashtra, (2012) 2 SCC 648**]. 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.



21. In the case on hand, the factum of the death of the deceased is not disputed. PW10 is the only witness who is alleged to have witnessed the incident. However, it is doubtful whether he has actually seen the driver of the offending vehicle. The prosecution relies on the testimony of him, the owner of the offending bus and the reply given by PW7 to Ext. PW7/A notice under Section 133 of the Motor Vehicles Act, 1988. The reply given by PW7 is a statement given by him during the course of investigation to the IO and hence inadmissible due to the embargo contained in Section 162 Cr.P.C. However, PW7 in his examination admits that the accused was the driver of the offending vehicle. Now coming to the question whether the accused was driving the vehicle in a rash and negligent manner so as to attract criminal liability under Sections 279 and 304A IPC.

22. The prosecution case primarily rests on the sole testimony of PW10, who claims to have seen the incident.



However, the testimony of PW10 falls short of establishing the essential ingredients of the offences punishable under Sections 279 and 304A IPC. A perusal of his testimony reveals that he has not deposed anything regarding the manner in which the offending bus was being driven so as to indicate that the accused was driving it either rashly or negligently. The testimony of PW10 is conspicuously silent as to the speed of the bus, whether it was being driven at an excessive speed, whether there was heavy traffic at the place of occurrence, whether the bus had deviated from its lane, or whether the accused adopted any unusual or dangerous manner of driving which could reasonably be characterised as rash or negligent. There is also no material on record to show whether there was any speed limit which the accused had violated.

23. It is no doubt true that a witness cannot be expected to narrate every minute detail with mathematical precision. Nevertheless, in a case for offences punishable under



Sections 279 and 304A IPC, the prosecution is required to establish not merely the occurrence of the accident but that the accident was the direct consequence of the rashness or negligence of the accused in driving the vehicle. In the present case, the testimony of PW10 does not provide any material from which it can be reasonably inferred that the accused was driving the bus in a rash or negligent manner.

24. Coming to Ext. PW11/B Site plan, it stands admitted that the same was prepared by PW11, the IO at the instance of PW10. It is well settled that a site plan/sketch map is admissible only to the extent it records what the Investigating Officer personally observed at the spot. Any markings showing the location of the incident, victim, or other facts based solely on statements made by witnesses during investigation are inadmissible, as they are hit by Section 162 Cr.P.C., being nothing more than statements made to the police during investigation. [See **Tori Singh v. State of U.P. AIR 1962 SC**



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399 : (1962) 1 Cri LJ 469, Jagdish Narain v. State of U.P., (1996) 8 SCC 199] Therefore, Ext. PW11/B site plan prepared by PW11, the IO, at the instance of PW10, cannot be treated as admissible insofar as it has the character of a statement recorded under Section 161 Cr.P.C. and the same being barred under Section 162 Cr.P.C. Even otherwise, if the prosecution intended to rely upon the features depicted in the site plan to establish the manner of the accident, PW10, being the eye witness, ought to have been questioned when he was in the box regarding the position of the vehicles and the deceased. No such attempt appears to have been undertaken by the prosecution.

25. Even assuming, for the sake of argument, that Ext. PW11/B site plan, is admissible in evidence, a perusal of the same does not help the prosecution case. The note given at the foot of the site plan, recorded in Hindi translated, reads as follows: *‘(A)’ indicates the place where the bus was found abandoned, ‘(B)’ indicates the place where the dead body was*



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lying and '(C)' indicates the place where the motorcycle was lying. The site plan further indicates that both the bus and the motorcycle were proceeding from the south towards the north. Apart from depicting the respective positions of the bus, the motorcycle and the deceased after the accident, Ext. PW11/B site plan does not disclose any circumstance from which rashness or negligence on the part of the accused can be inferred. It neither depicts the point of impact nor the width of the road nor the respective lanes nor the distance between the vehicles. In the absence of these material particulars, it is not possible to determine whether the bus had deviated from its lane, went to the wrong side and hit the motorcycle of the deceased, or was otherwise being driven in a manner amounting to rashness or negligence. Therefore, even if Ext. PW11/B is taken into consideration, it does not, by itself, establish the essential ingredients of the offences punishable under Sections 279 and 304A IPC.



26. 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.

27. In the result, the appeals *sans* merit are dismissed.

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

**CHANDRASEKHARAN SUDHA
(JUDGE)**

AUGUST 12, 2026/rs/mj