



2026:DHC:4353



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

% *Judgment reserved on: 13.05.2026*
Judgment pronounced on:16.05.2026

+ **CRL.A. 214/2018**

STATE (NCT of DELHI)Appellant

Through: Mr. Utkarsh, APP for the State with
SI Rajender Singh, PS Nangloi.

Versus

MAHAVIR SINGHRespondent

Through: Mr. Abhinav Sekhri and Mr. Aru
Vashisht, Advocates with respondent
in person (DHCLSC).

CORAM:
HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. In this appeal filed under Section 378 of the Code of Criminal Procedure, 1973 (the Cr.PC), the respondent/State in Sessions Case No. 556 of 2009 on the file of the Metropolitan Magistrate-03, West District, Tis Hazari Courts, Delhi, assails the



2026:DHC:4353



judgment dated 11.08.2015 as per which the sole accused has been acquitted of the offences punishable under Sections 279 and 304A of the Indian Penal Code, 1860 (IPC).

2. The prosecution case is that on 22.02.1999 at about 11:15 P.M. at Nangloi Chowk, Najafgarh Road, the accused drove tanker lorry bearing registration no. HR-47-5860 in a rash and negligent manner so as to endanger human life and personal safety and knocked down one Constable Chander Pal, brother of PW7, who was crossing the road along with PW6 and fled from the spot. Chander Pal thereafter succumbed to injuries on the same date and was declared as “brought dead” by the hospital. Hence, as per the charge-sheet/final report, the accused was alleged to have committed the offences punishable under Sections 279, 304A IPC and Sections 134 and 187 of the Motor Vehicles Act, 1988 (the MV Act).



2026:DHC:4353



3. On the basis of Ext. PW6/A FIS/FIR of PW6, given on 22.09.1999, crime no. 1025/1999, Nangloi Police Station, was registered for commission of offences punishable under Sections 299 and 304A IPC by PW1, Head Constable. PW8 was entrusted with the investigation of 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. On appearance before the trial magistrate, all the copies of the prosecution records were furnished to him, as contemplated under Section 207 Cr.PC. The particulars of the offences punishable under Sections 279 and 304A IPC as contemplated under Section 251 Cr.PC, was read over and explained to the accused, to which he pleaded not guilty.

5. On behalf of the prosecution, PWs. 1 to 8 were examined and Exts. PW1/A, PW2/A, PW3/A, PW4/A, PW5/A,



2026:DHC:4353



PW6/A-D, PW7/A, PW8/A-D and Mark PW8/1 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.

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 11.08.2015, acquitted the accused under Section 255(1) Cr.P.C. of the offences punishable under Sections 279 and 304A IPC. Aggrieved, the State has come up in appeal.



2026:DHC:4353



9. It was submitted by the learned Additional Public Prosecutor that the impugned judgment, is contrary to the facts and circumstances of the case, is bad in law as the trial court has failed to appreciate the legal maxim *res ipsa loquitur* (things speaks for itself) as a rule of evidence for determining the onus of proof and, therefore, liable to be set aside. It was further submitted that the trial court failed to appreciate that the respondent/accused was driving the offending tanker in a rash and negligent manner, as a result of which the accident occurred causing fatal injuries to the deceased. The finding of acquittal is contrary to the materials on record as the trial court erred by assuming PW6 Constable, the eye-witness to the incident as a planted witness who stood by his version throughout the trial regarding the manner in which the accident took place and the subsequent apprehension of the accused by him. It was also submitted that the absence of blood stains or fresh damage on the tanker was not fatal to the



prosecution case as the deceased had only been hit and not crushed by the vehicle.

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. 6/A, the FIS/FIR of PW6 dated 23.09.1999, recorded in Hindi roughly translated reads thus: — “*...On the intervening night of 22.09.1999-23.09.1999, I was on patrol duty with Constable Chandar Pal No. 218/DHG (the deceased) on Sultanpuri Road. At about 11:15 P.M., when I was crossing Najafgarh Road near*



2026:DHC:4353



Nangloi Chowk with Chandar Pal (the deceased); I was slightly ahead and Chandar Pal (the deceased) was behind me, at which time, a tanker bearing registration no. HR-47-5860 coming from the direction of Peera Garhi, driven by Mahavir (the accused), whose name and address were later ascertained upon inquiry, came driving the said tanker at a very high speed, in a negligent and careless manner, and suddenly turned left towards Najafgarh Road and hit Chandar Pal (the deceased) who was crossing the road, due to which he fell at some distance. At that same time, a PCR Van arrived at the spot and took the injured Chandar Pal to DDU Hospital, and I chased the tanker and caught the tanker driver Mahavir (the accused) along with the tanker near the water tank on Najafgarh Road. This accident was caused by the aforementioned tanker driver Mahavir by driving his said tanker at a very high speed and in a negligent and careless manner. I



2026:DHC:4353



have presented the tanker driver along with the tanker to you.

Legal action should be taken against him....”

14. PW6, when examined before the trial court, more or less stood by his version in Ext. PW6/A FIS/FIR and supported the prosecution case. According to PW6, when he along with the deceased was crossing the road, the offending vehicle took a sudden turn towards the Najafgarh Road and hit the deceased due to which the latter fell down on the road 2 to 3 feet away. Thereafter, several public persons gathered at the spot. Meanwhile, the PCR van, which was present at Nangloi Chowk, arrived at the spot and took the injured Chander Pal to the hospital. PW6 further deposed that he then chased the offending tanker on a private vehicle and apprehended the accused near the water tank on Najafgarh Road. PW6 further deposed that he then came back to the scene of crime and handed over the accused along with the offending vehicle to PW8, the investigating officer (IO).



2026:DHC:4353



According to PW6, the accident was caused due to the rash and negligent driving of the accused as the latter was driving the vehicle at high speed and took a sudden turn towards the Najafgarh Road.

14.1. PW6, in his cross-examination, admitted that at the time of accident, he had noted down the truck number as well as the color and structure of said truck, but had not seen the driver at that time. PW6 further deposed that he had chased the truck and apprehended the truck driver (the accused) with the truck near the water tank in Najafgarh Road, at which time, the accused was on the driver's seat.

15. PW2, Automobile Engineer, deposed that he had inspected the truck bearing registration no. HR-47-5860 at the request of the IO and had issued Ext. PW2/A report. His inspection revealed "*no fresh damage on the body of vehicle*".



2026:DHC:4353



16. PW8, the IO, deposed that on the date of incident, at about 11:30 P.M, he received Mark PW8/1 DD No. 26A regarding the accident. When he along with two Constables, Dharmender and Tara Chand, reached the scene of occurrence, it was found that the injured had already been shifted to DDU Hospital. Thereafter, when he reached the hospital, Chander Pal, the injured was declared “brought dead” by the doctor. When he returned to the scene of occurrence, PW6 met him and claimed to have seen the accident. PW6 produced the accused along with offending vehicle. He recorded PW6’s statement, i.e., Ext. PW6/A. He prepared Ext. PW8/B Site Plan at the instance of PW6. PW8, in his cross examination, deposed that he reached the scene of occurrence within 2 minutes as the place of accident is close to the police station. PW8 admitted that no eye-witness was found. PW8 denied the suggestion that he had planted PW6 as eye-witness in the case.



17. To bring home an offence under the Sections 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) 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.

18. 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.



2026:DHC:4353



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.

19. 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



2026:DHC:4353



conduct of human affairs, would do, or, the doing of something which a prudent and reasonable man would not do.

20. In the case on hand, the factum of the death of the deceased duly stands proved. The crucial question is whether the prosecution has been able to establish beyond reasonable doubt that it was the respondent/accused who was driving the offending vehicle at the relevant time and that the accident occurred due to his rash and negligent driving in order to bring home the offence under Sections 279 and 304A IPC.

21. The prosecution case primarily rests on the sole testimony of PW6, who claims to be the sole eye-witness to the incident. According to PW6, the offending tanker came at a “very high speed”, took a sudden left turn towards Najafgarh Road and hit the deceased and that the accident was caused due to “rash and negligent driving”. Beyond this general assertion, the prosecution has not brought on record the approximate speed of the vehicle, the



2026:DHC:4353



exact position of the deceased at the time of the incident, the prevailing traffic conditions, the width of the road or any other surrounding circumstance from which criminal negligence could safely be inferred. Mere use of the expressions “rash” and “negligent” is in law, insufficient unless supported by concrete facts demonstrating the manner of driving.

22. Further, Ext. PW8/B site plan refers to point ‘A’ as the place where the accident allegedly occurred near Nangloi Chowk at the turning towards Najafgarh Road. However, it is silent regarding the width of the road, the exact position of the deceased or PW6, the position of the offending vehicle, the presence of skid marks, blood stains, etc. Therefore, the site plan is of no help in deciding the rashness or negligence of the accused.

23. 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. Criminality is not to be presumed, subject of course to some statutory exceptions. In the absence of any material-on-record, no presumption of “rashness” or “negligence” could be drawn against the accused by invoking the maxim “*res ipsa loquitur*”. (See **State of Karnataka v. Satish, 1998 (8) SCC 493**). 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. [See **Partap v. State of U.P., AIR 1976 SC 966** and **Vijayee Singh v. State of Uttar Pradesh, AIR 1990 SC 1459**].

24. Another aspect is regarding the identity of the driver of the offending vehicle. PW6 has admitted that he has not seen the



2026:DHC:4353



driver at the time of incident. According to PW6, he chased the lorry in another vehicle and had apprehended the accused along with the offending vehicle near the water tank, Najafgarh Road. There is no clarity as to the vehicle in which PW6 is supposed to have chased the offending vehicle. Was it driven by PW6 himself or by another person? Where did that vehicle come from? The time of the incident is stated to be 11:15 P.M. PW6 does not have a case that his vehicle had been parked nearby. So, in whose vehicle did he chase the accused? No materials are forthcoming on the said aspect. Further, the scene of crime is situated in close proximity to Nangloi Police Station. Despite the same, PW6 neither informed the nearby police station nor sought immediate assistance from other police personnel and instead is alleged to have chased the tanker on a private vehicle. This Court is conscious that different individuals may react differently in moments of panic or confusion and there can be no straightjacket formula regarding human



conduct. Nevertheless, while exercising appellate jurisdiction against an order of acquittal, the question is not whether another view is possible, but whether the view taken by the trial court is wholly unreasonable or perverse. Upon a consideration of the materials on record, it cannot be said that the view taken by the trial court in entertaining doubt regarding the presence and conduct of PW6 was so improbable or perverse calling for an interference in appeal.

25. On an overall appreciation of the oral and documentary evidence on record, this Court is of the considered view that the appreciation of evidence undertaken by the trial court cannot be said to be perverse or wholly unsustainable. Hence, no interference is called for.

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



2026:DHC:4353



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

**CHANDRASEKHARAN SUDHA
(JUDGE)**

MAY 16, 2026

kd/rs