

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**Criminal Revision Application No.205 of 2005**

Ninad Suresh Pansare

Age 23 years, R/at Pansare

Bungalow, Near B.O.I. Naupada,

Thane (West).

... Applicant

versus

The State of Maharashtra

...Respondent

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Ms Ekta Patil i/b Vrishali Raje, for the Applicant.

Ms Sangeeta D Shinde, APP, for the Respondent / State.

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**Coram: R.N. Laddha, J.**

**Date: 17 January 2026**

**P.C.:**

This revision application takes exception to the judgment and order dated 18 January 2005 passed by the Court of Additional Sessions Judge, Thane, in Criminal Appeal No.61 of 2004, whereby the learned Judge partly allowed the appeal and confirmed the conviction of the applicant/ accused recorded by the learned Chief Judicial Magistrate, Thane, in Summary Criminal Case No.3433 of 1999, under Sections 279 of the Indian Penal Code ('IPC') and Section 184 of the Motor Vehicles Act, 1988 ('MV Act').

2. Briefly, it is the case of the prosecution that on 31 March 1999, at about 12:30 hours, Nilesh (PW-1), while riding his bicycle on a public road near Anand Theatre, was hit by the applicant's motorcar, which was allegedly driven at high speed in a rash and negligent manner, resulting in grievous injuries to Nilesh and damage to his bicycle. The prosecution also alleged that not only did the applicant drive the vehicle dangerously but also failed to furnish the requisite information relating to the accident to the concerned authorities.

3. After investigation, a charge sheet was filed, and the applicant pleaded not guilty and claimed to be tried. During the trial, the prosecution examined three witnesses, namely, Nilesh Kashinath Palkar (PW-1), Bhagatrao Tukaram Salunke (PW-2), and Pralhad Shamrao Shirsath (PW-3). As the prosecution closed its evidence, the accused was questioned under Section 313 of the Code of Criminal Procedure, 1973 ('CrPC'), as to the incriminating circumstances found in the prosecution's witnesses, but he denied them as false. The accused did not lead any evidence in his defence.

4. After appraisal of the evidence, while the learned trial Court returned a finding of guilt against the accused for the offences punishable under Section 279 of the IPC and Sections

184 and 134(b) of the MV Act, it acquitted him of the offences punishable under Sections 338 and 427 of the IPC. In appeal, the learned appellate Court acquitted the applicant of the offence punishable under Section 134(b) of the MV Act and maintained the conviction for the other offences. Being aggrieved and dissatisfied with the concurrent finding of conviction, the applicant has preferred the present revision application.

5. Ms Ekta Patil, the learned Counsel appearing on behalf of the applicant, submitted that the trial Court and the appellant Court misread the prosecution evidence, failed to evaluate it in proper perspective, and were influenced by a number of assumptions that cannot be sustained on the material on record. As a result, there has been a grave miscarriage of justice. It is contended that the prosecution failed to examine independent witnesses, and the alleged injury to the injured was not proved. It is therefore urged that the conviction be set aside.

6. On the other hand, Ms Sangeeta Shinde, the learned Additional Public Prosecutor representing the respondent/ State, supported the findings of the Courts below and submitted that no perversity or illegality has been demonstrated to warrant interference.

7. This Court has given anxious consideration to the rival submissions canvassed across the Bar and perused the records.

8. It is a settled principle of law that negligence or rashness cannot be inferred merely from the occurrence of an accident. The gravamen of the offence lies not in the accident per se, but in the existence of culpable rashness or negligence that occasioned it. Excessive speed, by itself, is insufficient to conclusively establish rash or negligent driving. The burden squarely rests upon the prosecution to prove, by cogent evidence, that the accused was driving in a rash and negligent manner and that such conduct directly resulted in the injury. Such culpability cannot be presumed *ipso facto*, nor can it be inferred solely by invoking the doctrine of *res ipsa loquitur*.

9. Upon a perusal of the testimony of PW-1, it transpires that PW-1 has merely alleged that the accident occurred due to the accused's driving; however, he has not attributed any overt act such as driving on the wrong side, sudden swerving, violation of traffic rules, or loss of control suggestive of rash conduct. In his cross-examination, PW-1 admitted that there was normal traffic on the road at the relevant time, which negatives the inference of a manner of driving so dangerous as to endanger human life. Significantly, PW-2 has categorically deposed that

the vehicle was not being driven on the wrong side of the road. This testimony directly undermines the prosecution's case that the accused acted in a manner falling within the mischief of Section 279 IPC. Further, PW-2 also admitted that he informed the authorities belatedly, thereby affecting the spontaneity and credibility of the prosecution's version as to the manner of driving.

10. Equally material is the absence of medical corroboration. Though PW-1 claimed to have sustained a fracture, PW-3, the investigating officer, admitted that no injury certificate or medical certificate was collected during the investigation. In the absence of medical evidence, the prosecution has failed to establish not only the nature of the injury but also its nexus with any alleged rash and negligent act of the accused/applicant.

11. It is also pertinent to note that no independent witness has been examined, despite PW-1 admitting the presence of normal traffic at the spot. The non-examination of independent witnesses, without any explanation, assumes importance in a prosecution under Section 279 IPC, where the manner of driving is the core issue and must be proved by clear, consistent, and reliable evidence. The investigation conducted

in the present case leaves much to be desired. The spot panchanama (Exhibit 22) is bereft of detailing the skid marks, braking distance and point of impact. Such evidence assumes critical importance in cases alleging rash and negligent driving and its absence materially weakens the prosecution's case. The prosecution has also failed to produce any mechanical inspection report of the vehicle to rule out the possibility of mechanical failure. The failure to examine independent witnesses, despite their admitted availability, attracts an adverse inference under Section 114(g) of the Indian Evidence Act.

12. To bring home an offence under the said provision, the prosecution must establish that the accused was driving the vehicle in a manner so rash or negligent as to endanger human life or to be likely to cause hurt or injury. Rashness connotes a conscious and deliberate disregard of the consequences, while negligence implies failure to exercise the reasonable care expected of a prudent driver. Mere involvement of a vehicle in an accident, or the fact that injury has been caused, does not *ipso facto* satisfy the statutory ingredients of Section 279 IPC.

13. The Courts below appear to have inferred rashness and negligence merely from the occurrence of the accident and the allegation of speed, which approach is legally unsustainable.

Speed, by itself, is not synonymous with rashness or negligence unless it is shown to be excessive, having regard to the road conditions, traffic situation, and surrounding circumstances. No such evidence has been led by the prosecution in the present case.

14. Section 184 of the MV Act contemplates driving in a manner dangerous to the public having regard to all circumstances of the case, in the absence of any evidence relating to traffic density, road condition, visibility, or statutory speed limits applicable at the relevant place and time, the essential ingredients of the said provision remain unproved. The conviction under Section 184 of the MV Act, therefore, appears to be consequential rather than independent, flowing mechanically from the finding under Section 279 IPC, which itself is unsustainable.

15. Where the conviction is founded on presumptions rather than proof of the essential ingredients of the offence, and where material evidence has been overlooked or misappreciated, interference by this Court in its revisional jurisdiction is not only permissible but warranted. The findings recorded by the Courts below, in the present case, are thus vitiated by legal infirmity and perversity.

16. In light of the foregoing, this Court deems it fit to allow the present revision application. Accordingly, the judgment and order dated 18 January 2005, passed by the Court of Additional Sessions Judge, Thane, in Criminal Appeal No.61 of 2004, and the judgment and order dated 4 September 2004, passed by the Court of Chief Judicial Magistrate, Thane, in Summary Criminal Case No.3433 of 1999, convicting the applicant are quashed and set aside. The applicant is acquitted of the offence punishable under Section 279 of the IPC and 184 of the MV Act.

**(R.N. Laddha, J.)**