



2026:AHC:45115

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2858 of 1987

Qamrul Islam

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	A.K. Awasthi, Bijay Kumar Srivastava, Hriday Kumar Singh, Jai Prakash Prasad
Counsel for Respondent(s)	:	A.G.A.

Court No. - 93

HON'BLE MRS. VANI RANJAN AGRAWAL, J.

1. The present criminal appeal has been preferred against the judgment and order dated 10.11.1987 passed by Shri S.N. Pandey, IXth Additional District and Sessions Judge, Allahabad, in Sessions Trial No. 455 of 1986, Police Station Koraon, District Allahabad, convicting and sentencing the appellant under Section 304-A I.P.C. to undergo one year R.I.
2. The prosecution story, in brief, is that the complainant, Shri Sharda Prasad Singh, is a resident of Village Bhalua under the jurisdiction of Koraon Police Station in District Allahabad. The deceased, Shri Indra Bahadur Singh, was the real brother of the complainant.
3. On 9 March 1985, at approximately 2:00 PM, the deceased left his house for Koraon Bazaar to purchase certain articles required for his factory. When he did not return home by evening, the complainant, along with the deceased's son Kunj Raj Singh and a co-villager Krishna Bahadur Singh, became concerned about his whereabouts. Consequently, at about 8:30 PM, they proceeded towards Koraon town in search of him.
4. Upon reaching Manda Chauraha, they found the deceased waiting for a conveyance to return to his village. Several other persons were also present at the spot. At that time, Suresh Babu, a constable attached to Koraon Police Station and one of the accused in the present case, was also present there.
5. The witnesses allegedly heard the said constable saying to the deceased, "Thakur, aaj kuchh chhana do." The deceased replied that he was returning home and would offer him a treat on some other occasion. Upon hearing this response, the accused Suresh Babu caught hold of the shirt of the deceased and began pulling him. When the deceased protested, the accused slapped him and forcibly dragged him towards a nearby liquor shop.

6. At that moment, a truck bearing Registration No. UTB-2267 approached from the direction of Manda road. The accused allegedly signaled the truck and uttered the words "Crush him". Immediately thereafter, he pushed the deceased off the platform (chabutra). As a result, the deceased fell under the wheels of the truck and was run over, causing his instantaneous death.

7. Following the incident, the accused Suresh Babu attempted to flee the scene on his bicycle. However, the complainant managed to catch hold of the bicycle, whereupon the accused abandoned it and escaped on foot. Meanwhile, the witnesses Krishna Bahadur Singh and Kunj Raj Singh chased the truck and successfully intercepted it near Chungi Naka. The driver of the truck disclosed his identity as Qamrul Islam.

8. Subsequently, the complainant Sharda Prasad Singh submitted a written report at Koraon Police Station against the truck driver and the constable. On the basis of the said report, a criminal case was registered under Sections 302, 279, and 304A of the Indian Penal Code.

9. In support of its case, the prosecution has examined as many as ten prosecution witnesses, i.e., P.W.-1 Sharda Prashad, P.W.-2 Kunjraj, P.W.-3 Krishna Bahadur, P.W.-4 Girdhari Lal, P.W.-5 Purushottam Singh, P.W.-6 Dr. B.R. Singh, P.W.-7 Chandra Shekhar, P.W.-8 Ram Singh, P.W.-9 Dayaram Morya, and P.W.-10 Jai Shankar Singh.

10. The documentary evidence, i.e., Written Report, Ext. Ka.1; Inquest Report, Ext. Ka.2; Technical Examination of the Vehicle, Ext. Ka.3; Post-mortem Report, Ext. Ka.4; Photograph of Body, Ext. Ka.5; Challan of Body, Ext. Ka.6; Recovery memo of blood-stained kurta, Ext. Ka.7; Letter to C.M.O., Ext. Ka.8; Letter to R.I., Ext. Ka.9; Recovery Memo of Blood-stained & Plain Soil, Ext. Ka.10; Recovery Memo of Shoes of the Deceased, Ext. Ka.11; Recovery Memo of Cycle, Ext. Ka.12; Supurdagi Memo, Ext. Ka.13; Chik Report, Ext. Ka.14; Carbon Copy of General Diary, Ext. Ka.15; Site plan, Ext Ka-17 & Charge-sheet, Ext. Ka-19 have been duly proved by the prosecution witnesses. The shoes of the deceased, Material Ext. Ka.1; Cycle, Ext. Ka.2; Photographs, Exts. Ka.3 to 6; Kurta of the deceased, Ext. Ka.7, are on record.

11. The prosecution case, as disclosed in the First Information Report and supported by oral evidence, is that the deceased was pushed by accused Suresh Babu during an altercation, as a result of which he fell on the road and his head came in contact with the rear wheel of a passing truck, leading to his instantaneous death.

12. In appeal, the principal question for consideration is whether the conviction of appellant Qamrul Islam, under Section 304-A I.P.C. is sustainable in law.

13. The informant, P.W.-1 Sharda Prashad, in his testimony, stated that in cross-examination, the truck was being driven at a speed of about 40 km per hour and that when it reached the crossing, the speed of the truck further slowed down. P.W.-2 Kunjraj also stated in his cross-examination that the truck was moving at an average speed. From the consistent testimonies of these prosecution eyewitnesses, it clearly emerges that the truck was not being driven at a high speed or in a rash manner.

14. Further, both P.W.-1 and P.W.-2 informed that Sharda Prashad Singh and the son of the deceased, Kunjraj Singh, categorically stated that the head of the deceased came under the rear wheel of the truck. P.W.-2 Kunjraj Singh specifically stated that at the time when his father was pushed and fell on the road, the front portion of the truck had already passed, and only thereafter did the accident occur with the rear wheel.

15. He further explained that he could not raise any alarm or prevent the accident because there was no opportunity to do so.

16. These facts clearly indicate that the occurrence took place suddenly and unexpectedly. The deceased fell on the road due to the push given by co-accused Suresh Babu, and by the time the truck driver, appellant Qamrul Islam, could have noticed the same, the front part of the truck had already crossed the spot. In such circumstances, the truck driver had no reasonable opportunity to avert the accident.

17. To bring the case within the ambit of Section 304-A I.P.C., the prosecution must prove that the death was the direct result of a rash and negligent act of the accused; mere involvement of a vehicle in an accident is not sufficient.

18. Negligence must be culpable, and such that a prudent person would not have committed it under similar circumstances. The truck driver would not be criminally liable if the following conditions are satisfied:

- i. The driver was not driving rashly or negligently;
- ii. The vehicle was being driven within the permissible speed limit;
- iii. The driver had no prior knowledge of, or reasonable opportunity to avoid, the accident.

19. In the present case, the evidence on record does not establish that appellant Qamrul Islam was driving the truck rashly or negligently. On the contrary, the prosecution witnesses themselves admitted that the truck was

being driven at a normal speed and had slowed down at the crossing. Thus, the proximate cause of death was the push by co-accused Suresh Babu, and any liability, if at all, falls on the person who pushed the deceased. The truck driver cannot be held criminally responsible for the incident.

20. Upon consideration of the facts as presented and the settled principles of criminal jurisprudence, it is my considered opinion that no criminal liability attaches to the truck driver under the Indian Penal Code, 1860, in the absence of rashness or negligence on his part. Accordingly, this Court is of the considered view that the prosecution has failed to prove the case beyond reasonable doubt against appellant Qamrul Islam for causing the death of the deceased by rashly or negligently driving.

21. The appeal is **allowed**. The conviction and sentence recorded against him are hereby set aside, and he is acquitted of all charges. His bail bonds are cancelled, and his sureties are discharged.

22. Let a certified copy of this judgment and order be sent forthwith to the court concerned for its necessary compliance.

January 21, 2026
Pravesh Mishra

(Mrs. Vani Ranjan Agrawal,J.)