



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CRIMINAL APPEAL NO. 408 OF 2005**

The State of Maharashtra  
Through Police Station,  
Vazirabad, District Nanded

Appellant

Versus

Ujwala @ Vijaya w/o  
Subhashrao Waghlikar  
Age : 40 yrs, occ : service  
R/o Cidco, Nanded.

Respondent

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Mr. R.B. Dhaware, A.P.P. for the appellant / State.  
Mr. C.M. Ghodke, Advocate holding for Mr. Gaurav Deshpande,  
Advocate for the respondent.

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**CORAM : SANDIPKUMAR C. MORE, J.**

**DATED : 4 MARCH 2025.**

**JUDGMENT :**

1. The appellant/State has filed this appeal against the acquittal of respondent/accused recorded by learned Chief Judicial Magistrate, Nanded i.e. learned trial Court in S.C.C. No.2159/2002 under the judgment and order dated 17.02.2005 from the offences under Sections 279 and 337 of the Indian Penal Code (for short, "I.P.C").

2. As per the prosecution story, the respondent/accused on 12.03.2002 at about 10.30 a.m., while driving white coloured Maruti car having registration No. AP-9B-8233

in rash and negligent manner in the premises of District Court, Nanded, gave dash to complainant Gopinath Deoba Kokare i.e. PW-5 resulting into sustaining injuries by him. Accordingly, the offence under aforesaid sections was registered against respondent/accused and then charge-sheet was also filed. The learned trial Court though conducted the trial against the respondent/accused, but ultimately acquitted her of the said offence.

3. The learned A.P.P. submits that there is evidence of almost three eye witnesses who have stated that the respondent/accused had driven her car in speed in most negligent manner and gave dash to the complainant and injured him. He pointed out that the respondent/accused was entering into the premises of District Court and therefore, she was supposed to drive the car in moderate speed. According to him, the respondent/accused was at fault in the occurrence of accident since she gave dash to the complainant from backside. As such, he prayed that appeal be allowed and respondent/accused be punished according to law.

4. On the contrary, the learned Counsel for the respondent/accused vehemently argued that though it was established that the respondent/accused was driving the car at the relevant time, but she was in slow speed and the

accident did not take place due to her negligence. On the contrary, the injured did not suffer grievous injuries as stated by him. According to him, it was purely a case of accident and the same did not take place in the manner as narrated by the complainant and other eye witnesses. He also pointed out certain vital admissions in the cross-examination of the complainant and eye witnesses. Thus, he supported the impugned judgment and prayed for dismissal of appeal.

5. Heard rival submissions. Also perused the record and proceeding alongwith impugned judgment.

6. On going through the impugned judgment, it is evident that though the learned trial Court has held that the respondent/accused was driving the car at the relevant time, but ultimately observed that the evidence of prosecution did not establish the negligent act of the respondent/accused which endangered public at large. The aforesaid finding has come on record on the basis of evidence led by the prosecution. Therefore, the evidence of prosecution needs to be scrutinized with care.

7. The prosecution has examined in all seven witnesses, out of them PW-1 Shankar Narwade is a panch witness who has proved the contents of spot panchnama. The evidence of this witness is not so significant since it is not

disputed that the respondent/accused was driving the car at the time of accident. Further, PW-2 Anil Sadavarte and PW-3 Pramod More are the eye witnesses who have stated the incident as per the prosecution story. PW-5 Gopinath is the injured whereas PW-6 is Investigating Officer and PW-7 is A.S.I. Hanif Mohammad whose evidence is on procedural aspect. PW-4 Dr. Ranjana Deshmukh is the Medical Officer who had examined the injured after the accident. Out of these witnesses, the evidence of PW-2, PW-3 and PW-5 is important one to ascertain as to whether the respondent/accused acted in rash and negligent manner.

8. The learned trial Court has already held that the respondent/accused was driving the car involved in the accident and at the relevant time she was entering into the District Court premises through main gate. Though PW-2 Anil has deposed before the Court that the accused drove her car in speed and gave dash to the complainant (PW-5), but he did not specify as to whether the said car was in high speed. On the contrary, in the cross-examination he stated that the said car was being driven by the respondent/accused at the speed below 25 kmph. By taking judicial note of the said fact, it can be inferred that the said car at the entry of District Court premises was definitely in slow or moderate speed. Further,

the spot panchnama indicates that no tyre marks were found on the spot of accident, that means the car was not in high speed and before the accident the same was tried to be stopped by the respondent/accused. Further, PW-3 Pramod though stated that accused entered in the District Court premises in speed, but he has not specified whether the car of respondent / accused was in high speed. Further, considering the fact that respondent/ accused was entering into District Court premises with speed of 25 kmph, it cannot be inferred that she was acted rashly.

9. So far as the act of giving dash to the injured Gopinath is concerned, Gopinath has not stated before the Court that the car, after giving him dash, had in fact dragged for a distance about 15 to 16 ft. as stated in the complaint. In the complaint at Exh.37 he also did not state that after the impact, his left leg was got entangled in the door of the car and therefore, he was dragged by the said car 15 to 16 ft. ahead. Had it been the case that he was dragged so, then he would have sustained severe injuries. However, the injury certificate (Exh.37) does not show any other bodily injury sustained by the injured except the contusion on left knee. Further, during his chief examination itself injured Gopinath had stated that after the dash he had fallen on the ground. Even PW-2 Anil

has admitted in the cross-examination that he did not see the injured entangled in the bumper of the car or he had fallen down on the ground. It is to be noted that though PW-3 Pramod has deposed about dragging of injured after the dash, but in the cross-examination he has admitted that he did not state before the police that the car dragged the injured for 15 to 16 ft. Thus, considering these admissions it is highly difficult to believe that the respondent/accused had in fact given dash to the injured while driving the car recklessly and in high speed and also dragged him for the distance of 15 to 16 ft. ahead.

10. It is extremely important to note that there was no injury found on the person of injured from the backside of his body. The injury certificate only indicates that the injured was having contusion on left knee. Therefore, considering the evidence of injured as well as eye witnesses and the admissions given by them, it reveals that the respondent/accused was in fact driving her car in moderate speed and she might have given a slight dash to the injured while entering into the District Court premises.

11. The learned trial Court has also considered various judgments of this Court wherein it is held that to constitute the offence under Section 279 of I.P.C. it has to be established

that the accused was driving a vehicle on public way in rash or negligent manner endangering human life and that the onus of proving the negligence and rashness is on the prosecution which has to be proved beyond all reasonable doubts. However, the necessary ingredients of the offence under Sections 279 and 337 of I.P.C. are certainly missing in the instant case. On the contrary, it appears that the respondent/accused was driving her car in moderate speed and might have given a slight dash to the complainant Gopinath without any negligence on her part. Therefore, the acquittal recorded against respondent/accused by the learned trial Court is quite justified and in consonance with the evidence on record. Thus, there is no reason to interference with the impugned judgment and accordingly the appeal stands dismissed.

**(SANDIPKUMAR C. MORE, J.)**