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

+ CRL.L.P. 193/2020 & CRL.M.A. 4795/2020

STATE

.....Petitioner

Through: Mr. Aashneet Singh, APP.
SI Kunal Kumar, P.S. Bindapur.

versus

BRIJ MOHAN

.....Respondent

Through: Mr. Pinku Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

02.12.2025

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1. This petition under Section 378(1) of the Code of Criminal Procedure, 1973¹ (*pari materia* Section 419(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023²) seeks leave to appeal against the judgment dated 17th September, 2019 acquitting the Respondent of offences under Sections 279/337/338 of the Indian Penal Code, 1860³ arising from FIR No. 28/2017, registered at P.S. Bindapur.

FACTUAL BACKGROUND

2. The prosecution case, in brief, is as follows:

2.1. On 12th January, 2017, at about 7:00 a.m., the complainant, Nirmala Devi (PW-1), and her husband, Kishan Dass (PW-2), were travelling on a motorcycle towards their workplace. Near East Uttam Nagar Metro Station, the Respondent Brij Mohan, riding a motorcycle, is alleged to have

¹ CrPC"

² "BNSS"

³ "IPC"



approached from the wrong side at high speed and collided with their motorcycle, causing both riders to fall and suffer injuries on their legs. A PCR call was made and both injured persons were taken to DDU Hospital. Basis the written complaint of Nirmala Devi recorded on the following day, FIR was registered under Sections 279/337/338 IPC.

2.2. SI Udham Singh (PW-4) visited the spot, seized both vehicles, and subsequently, arrested the Respondent. On completion of investigation, chargesheet was filed. Subsequently, charges were framed under Sections 279/337/338 IPC on 21st April, 2018, to which the Respondent pleaded not guilty and claimed trial.

2.3. To prove the charges, the prosecution examined 4 witnesses:

"PWs.	Name	Deposed
PW-1	Nirmla Devi	Stated that while travelling with her husband on 12 th January, 2017, the accused came from the wrong side at high speed on motorcycle DL-9ST-9736 and hit their motorcycle, causing injuries; PCR took them to DDU Hospital; lodged complaint the next day; identified accused and vehicle.
PW-2	Kishan Dass	Corroborated PW-1; stated the accused's motorcycle came from the wrong side at high speed and collided with theirs; he sustained a right-leg injury; identified accused and vehicle; admitted they initially contemplated settlement but later filed the complaint due to the accused's conduct.
PW-3	Dr. Puneet (DDU Hospital)	Proved MLC of PW-1 prepared by Dr. Jyotshina; identified her handwriting/signature; admitted he did not personally prepare the MLC.
PW-4	SI Udham Singh (Investigating Officer)	Reached the spot and found two motorcycles in accidental condition; at DDU Hospital found PW-1 and PW-2 medically fit but they refused to give statements; recorded PW-1's statement the next day and completed the usual investigation steps (site plan, seizures, notice under S.133 MV Act, arrest,



mechanical inspection, chargesheet). In cross-examination stated that the injured were in severe pain at the hospital and that there were settlement discussions between the parties.

2.4. After closure of prosecution evidence, the statement of the Respondent under Section 313 CrPC was recorded. He denied driving rashly or negligently and asserted that the, in fact, the complainant was at fault, stating he had braked, but the collision occurred because PW-2 lost control. He further stated that the case had been lodged to obtain an insurance claim and that there had been a settlement discussion at the police station on the day of the incident. No defence evidence was led.

2.5. On an appraisal of the material on record, the Trial Court, by the impugned judgment dated 17th September, 2019, acquitted the Respondent of all charges.

GROUND OF APPEAL

3. Mr. Aashneet Singh, APP for the State, urges the following grounds to seek leave to appeal against the impugned judgement:

3.1. The Trial Court has mis-appreciated the evidence on record and acquitted the Respondent on the basis of conjectures and surmises, rather than on a fair assessment of the factual matrix.

3.2. The testimonies of the two injured eye-witnesses, PW-1 Nirmala Devi and PW-2 Kishan Dass, are clear, consistent and mutually corroborative. Their account of the Respondent coming from the wrong side and colliding with their motorcycle stands supported by the medical evidence and the contemporaneous documents. In such circumstances, the evidence of injured eye-witnesses, ordinarily accorded a higher degree of credibility, could not



have been discarded without cogent reasons.

3.3. The Trial Court has, on an erroneous factual premise, observed that there were no photographs of the offending vehicle on record, overlooking that the photographs of the Respondent's motorcycle and that of the complainant's motorcycle had been duly proved as Ex. P-1 and Ex. P-2. This has, according to the State, vitiated the Trial Court's appreciation of the scene of occurrence.

3.4. The Trial Court gave undue weight to the fact that the written complaint was lodged on the next day. PW-2 had suffered grievous injury, and PW-4 (IO) has categorically stated that both injured were in severe pain at the hospital and not in a position to give their statements immediately. In this backdrop, the lodging of the complaint on the following day was natural and could not, by itself, be a ground to doubt the prosecution version.

3.5. Undue emphasis has been given to the absence of independent public witnesses and to the fact that there were talks of settlement between the parties. The State maintains that once the version of the injured eye-witnesses is found reliable and stands corroborated by medical and documentary evidence, the prosecution is not required to produce independent witnesses as a matter of course, especially in a roadside accident where passers-by may not be available or willing to depose.

3.6. The Trial Court has failed to correctly apply the law on rash and negligent driving. The Respondent is alleged to have been driving from the wrong side and at speed in a congested urban stretch near a metro station. In such circumstances, the nature of the accident and the surrounding facts attracted the principle of *res ipsa loquitur* and, at the very least, called for an inference of negligence on the Respondent's part. By treating speed and the



absence of certain ancillary evidence as determinative, the Trial Court, it is argued, has taken an unduly narrow view of the ingredients of Sections 279, 337 and 338 IPC.

ANALYSIS

4. At this stage, the Court is concerned only with whether leave to appeal is warranted under Section 378(3) CrPC. The governing principles are well-settled. An appeal against an order of acquittal does not lie as a matter of course, and the same must be analysed on merits. The appellate court is required to apply its mind to the material on record, including the sworn testimonies of the prosecution witnesses, and record reasons as to why leave should or should not be granted, and whether the acquittal recorded by the trial court calls for interference.⁴

5. On that touchstone, the Court has examined the impugned order. The reasons the acquittal read as follows:

“25. Appreciation of evidence: Now coming to the merits of the case, I first deem it pertinent to enunciate the actus reus and mens rea required to inculcate the accused for offences under Sections 279 and 337/338 IPC.

26. To bring home culpability under Section 279 IPC, the following elements must spring from the prosecution version and the evidence adduced thereby:

- 1. A person must drive or ride a vehicle on a public way;*
- 2. Such driving or riding must be so rash or negligent as to endanger human life or to be likely to cause hurt or injury to any person.*

27. Likewise, for entailing the consequences of offences under Sections 337 and 338 IPC, the following ingredients must surface:

- 1. A person must cause hurt or grievous hurt to another;*
- 2. The hurt must be caused by such an act which is rash or negligent so as to endanger human life or personal safety of others.*

⁴ *State of Maharashtra v. Sujay Mangesh Poyarekar*, (2008) 9 SCC 475; *Manoj Rameshlal Chhabriya v. Mahesh Prakash Ahuja*, 2025 INSC 282.



28. Since criminal liability can be attached only by proving each element of the section under which culpability is sought to be enforced, I shall go on to appreciate the evidence—documentary and oral—in light of how compellingly it satisfies each such ingredient, if at all.

29. First and foremost, for any prosecution case to stand on its own legs, it must pass through the stringent test of compelling cogency, plausibility and lucidity. The cardinal principle of imputing guilt on the accused is that the said guilt must be proved beyond reasonable doubt. In the present case, the claim of the prosecution brims with unsettling doubt and pretence. Let us examine the potentiality of the story so put forth.

30. Inarguably and rather agreeably, the prosecution has been able to prove that injuries were sustained by the complainant. The same stands substantiated by the medico-legal report placed on record. However, the prosecution has not been able to unimpeachably prove that the said injuries were a direct result of the rash and negligent act of the accused.

31. The complainant filed her written complaint qua the incident in question a day after the occurrence thereof. The FIR was lodged after a day's delay and the prosecution has not been able to satisfactorily explain the cause of such delay. PW-4 SI Udham Singh categorically testified that the victims, despite being fit to give a statement, refused to do so and their statements could only be recorded on 13.01.2017. It is not the case of the prosecution that the victims were not capable of giving their statement when PW-4 visited the hospital to record the same. A compelling circumstance being amiss from the record throws immense doubt on the bona fides of the claims of the victims.

32. Reliance can profitably be placed on the judgments rendered in *Sat Pal v. State* 22 (1982) DLT (SN), *State v. Narayan* AIR 1992 SC 2004 and *Karnel Singh v. State* 1995 SCC (Cr.) 977 wherein the Hon'ble Courts observed that unexplained delay in lodging the FIR inevitably gives rise to suspicion which puts the court on guard to look for the plausible motive and consider its effect on the trustworthiness of the prosecution version.

33. Furthermore, PW-2 himself admitted that he filed the complaint against the accused because the accused allegedly misbehaved with them and that they had initially arrived at a settlement. Thus, it is amply clear that the premise of the complaint is not a grievance resulting from the alleged accident but is an alleged misbehaviour which propelled the victims to prosecute the accused. This lucid admission of fact, coupled with the delay in lodging the FIR, causes dubiety to lurk around the



prosecution version and envelopes the credulity of the victims with a thick fog of unreliability.

34. The possibility of the prosecution version being a motivated one cannot be ruled out. Apart from the complainant and her husband, no other independent witness was examined by the State to corroborate the versions of the victims. Since a cloud of doubt hovers over the creditworthiness of the victims, the absence of any public witness to pillar the story of the prosecution has reasonably proved fatal for the State.

35. Not only is the present case bereft of evidence of any independent witness, but also of any other proof to cement the fact that the injuries sustained by the victims were a direct result of the act of the accused. There is no CCTV footage or photographs of the offending vehicle or that of the vehicle which was being ridden by the victims. The lack of such relevant evidence also renders the prosecution story suspicious.

36. Ratio: In view of the above, offences under Sections 279/337/338 IPC are not made out against the accused. Accordingly, the accused Brij Mohan is acquitted of the offences with which he has been charged.”

6. The acquittal rests, in substance, on three planks: first, that although the factum of injuries to PW-1 and PW-2 stands proved, the prosecution failed to establish that those injuries were the direct result of any rash or negligent act attributable to the Respondent; second, that the prosecution version appeared coloured by a possible motive, in light of the delay in lodging the FIR and PW-2's admission that they initially did not intend to pursue the case and proceeded only after settlement talks failed; and third, that in the absence of any independent public witness or contemporaneous material such as CCTV footage, the prosecution failed to dispel the reasonable doubt surrounding the manner of the incident.

7. The grounds urged by the State do not dislodge these core reasons. It is correct that PW-1 and PW-2 have, in substance, given a consistent version attributing rash driving to the Respondent. However, in a prosecution under



Sections 279, 337 and 338 IPC, it is not enough to prove that an accident occurred and injuries were suffered; the prosecution must also establish, beyond reasonable doubt, the specific rash or negligent act that caused the accident. No independent public witness was examined, though the incident is said to have occurred near a metro station in the morning hours. No CCTV footage has been brought on record. The medical evidence (MLCs) and the photographs of the vehicles, even if taken to have been duly proved, go no further than confirming that there was a collision and that the injured suffered certain injuries. They do not, by themselves, reveal how the collision occurred, whether the Respondent's motorcycle was on the wrong side, whether there was excessive speed, or any other concrete feature of rashness or negligence. Even if one assumes that the trial court erred in observing that photographs were not on record, the presence of those photographs does not materially alter the evidentiary position on the essential element of rash or negligent driving.

8. The reliance placed by the State on the maxim *res ipsa loquitur* also cannot carry the case further at the criminal standard. ***In State of Karnataka v. Satish***,⁵ the Supreme Court has held in clear terms that in a criminal trial the burden remains on the prosecution to establish every essential ingredient of the offence, and that in the absence of supporting material, no presumption of rashness or negligence can be drawn merely by invoking *res ipsa loquitur*. The maxim, rooted in civil law, cannot be used to fill evidentiary gaps or to relieve the prosecution of the obligation to prove the precise manner of negligent conduct beyond reasonable doubt. A bare factum of collision, without more, does not warrant a presumption of



criminal rashness.

9. The trial court also viewed the prosecution version with circumspection because of the timing and motivation of the complaint. The FIR was lodged the day after the incident. The State seeks to explain this by pointing to PW-4's evidence that the injured were in pain and did not give their statements on the same day. Even if that explanation is accepted and the delay in registration is treated as sufficiently explained, another circumstance remains: PW-2's categorical statement that they initially contemplated settlement and chose to lodge the complaint only after the Respondent allegedly misbehaved and the settlement talks broke down. That admission does not by itself falsify the occurrence; however, it legitimately introduces an element of doubt about the neutrality and spontaneity of the decision to prosecute. When this aspect is read together with (i) the absence of any independent public corroboration, and (ii) the lack of contemporaneous evidence indicating rashness or negligence, the trial court's hesitation to convict on the sole basis of the interested testimonies of PW-1 and PW-2 cannot be considered to be perverse. The trial court was entitled, in a criminal case, to extend the benefit of doubt in such circumstances.

CONCLUSION

10. In this backdrop, the view adopted by the trial court, that the prosecution has failed to establish beyond reasonable doubt that the accident was the result of rash or negligent driving by the Respondent, that the delayed FIR coupled with PW-2's admission casts doubt on the motivation for lodging the complaint, and that the case lacks corroboration from any

⁵ (1998) 8 SCC 493.



independent or contemporaneous source, is a reasonably possible view on the evidence.

11. Thus, since the view adopted by the trial court is a plausible one, and the presumption of innocence stands further fortified by the acquittal, no ground is made out for grant of leave under Section 378(3) CrPC. The application for leave to appeal is accordingly dismissed.

SANJEEV NARULA, J

DECEMBER 2, 2025

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