



2025:DHC:9989



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

%

Date of Decision: 06.11.2025

+

CRL.A.864/2016

THE STATE (GNCT OF DELHI)Appellant
Through: Ms. Shubhi Gupta, APP for State.

Versus

RAJENDER KUMARRespondent
Through: None.

**CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

JUDGMENT (ORAL)

1. The present appeal has been preferred by the appellant/State under Section 378 Cr.P.C., seeking setting aside of the impugned judgment dated 31.03.2015 passed by the learned CMM, East District, Karkardooma Courts, Delhi, in Case No. 126/2008 arising out of FIR No. 557/2006 registered under Sections 279/304A/337 IPC at P.S. Pandav Nagar, whereby the respondent was acquitted of all charges. Notably, the leave to appeal was granted vide order dated 08.09.2016.
2. The case of the prosecution, briefly stated, is that on 06.11.2006 at about 11:00 a.m., *Pradeep Kumar* was going from Mandawali to Shashi Garden on motorcycle bearing no. DL-7SX-9337, with his father *Bhim Singh* as pillion rider. When they reached near Ganesh Nagar Bus Stand in front of Mother Dairy, an MCD half-truck bearing No. DL-1GB-3384, driven at high speed and in a rash and negligent manner, came from behind



and hit their motorcycle. Both fell on the road and sustained injuries; *Bhim Singh* was declared “brought dead” at R.K. Hospital, while the complainant suffered injury to his right leg. The driver of the truck, i.e., the respondent herein, fled from the spot leaving the vehicle behind. On the basis of *Pradeep Kumar’s* statement, FIR No. 557/2006 was registered, and upon completion of investigation, charge-sheet was filed. Finding a prima facie case, notice under Sections 279 and 304A IPC was served on 24.05.2008, to which the respondent pleaded not guilty and claimed trial.

3. The prosecution examined 10 witnesses in support of its case. PW-1/WHC *Kamlesh* proved the FIR as Ex. PW-1/A. PW-3 produced the gate register of the MCD (Ex. PW-3/A) showing that it was the respondent who had taken the offending vehicle for driving on the date of the incident. PW-5/HC *Sushil Tyagi* and PW-7/HC *Chet Prakash* accompanied the I.O. to the spot of the incident upon receipt of DD No. 17A. PW-5 exhibited seizure memos of weighment slip of the offending truck, of the motorcycle involved in the accident along with two helmets, and of the truck itself. PW-9/Dr. *Mukta Rani* proved the post-mortem report of *Bhim Singh*.

The most material witnesses, however, were PW-2/*Pradeep Kumar*, the complainant and injured eye witness; PW-10/SI *Abhishek Kumar Singh*, the I.O.; PW-6/Ct. *Satya Prakash*, who took the photographs of the scene; and PW-8/Retd. SI *Kedar Nath*, the mechanical inspector who examined both vehicles.

4. The complainant, examined as PW-2, proved his statement recorded by the I.O. (Ex. PW-2/A) which formed the basis of the prosecution case. He identified the respondent in Court as the driver of the offending MCD truck



and affirmed that the said truck, being driven at a very high speed in a rash and negligent manner, struck his motorcycle from behind. He described the injuries sustained by him and his father, as well as the sequence of events that followed the accident, including their removal to the hospital and the recording of his statement by the police. He also identified his motorcycle involved in the accident (Ex. P-1) and the photographs of the spot (Ex. A-1 to A-6).

In his cross-examination, he admitted that photograph A-1 shows the front wheel of the motorcycle facing the truck. Though he volunteered that the photographs were taken in his absence, he did not claim that they failed to depict the correct positions of the vehicles or that they were manipulated in any manner.

5. The I.O. of the case, SI *Abhishek Kumar Singh*, was examined as PW-10. He got lodged the concerned FIR and took up the investigation by himself. He got the photographs of the spot clicked, prepared the site plan, recorded the statements of witnesses under Section 161 Cr.P.C., and took the vehicles involved in the accident into possession. He also arranged for the mechanical inspection of both vehicles.

In his cross examination, he stated that as per photograph A-5, no damage was found on the back side of the motorcycle.

6. The statement of the respondent under Section 313 Cr.P.C. was recorded, wherein he stated that the complainant was coming from the wrong side, driving in a rash and negligent manner, and had himself struck the truck. He maintained that he was driving at a normal speed and was innocent. However, he did not lead any defence evidence.



7. I have heard the learned APP for the State and carefully gone through the record. The case of the prosecution is that that the respondent, while driving the MCD truck rashly and negligently, came from behind and hit the motorcycle driven by *Pradeep Kumar*, resulting in injuries to him and the death of his father. The Trial Court examined the evidence put forth by the prosecution against the respondent for offences under Sections 279/337/304A IPC.

8. As stated earlier, photographs from the spot were exhibited by the complainant/PW-2 as well as by PW-6, the photographer/police official. The said photographs clearly show the front wheel of the motorcycle facing the truck. This naturally leads to the inference that the collision between the two vehicles was not as projected by the prosecution, namely that the truck hit the motorcycle from behind, but rather that it was a head-on collision between the two. No allegation of driving on the wrong side has been made by the prosecution against the respondent; notably however, such an allegation has been made by the respondent against the complainant in his statement under Section 313 Cr.P.C.

9. While it may be possible that the motorcycle, upon impact, turned or rotated in such a manner that its front wheel came to face the truck, no such suggestion has been put forth, and this version finds no corroboration in the other evidence on record, particularly the mechanical inspection report. No damage is visible on the rear side of the motorcycle in the photographs, and a perusal of the mechanical inspection report of the motorcycle (Ex. PW-8/B) shows that maximum damage was caused to its front portion, which supports the inference that the accident occurred in the manner reflected in



the photographs. Had the truck been driven rashly and struck the motorcycle from behind or at an angle, the damage pattern would necessarily have been different. It is also noteworthy that while the complainant stated that the photographs were taken in his absence, he has not alleged that they do not depict the correct position of the vehicles or that they were manipulated in any manner.

10. Additionally, the Trial Court observed that DD No. 17A dated 06.11.2006, though not proved but forming part of the record, refers to an accident involving a bus bearing registration no. DL-1CA-0585, and not a motorcycle with a truck. This discrepancy between the DD entry and the subsequent FIR, both purporting to relate to the same occurrence, casts further doubt on the prosecution version.

11. The Trial Court also noted that even though the respondent was not apprehended at the spot, no TIP was conducted. This lapse is significant, particularly in the circumstances of the present case, where the name of the respondent was not known to the eyewitness. The identification of the accused for the first time in Court, years after the incident and without a prior TIP, cannot be considered reliable.

12. Further, even assuming that the respondent was indeed driving the offending truck, the prosecution has failed to prove beyond reasonable doubt that he was driving the same in a rash or negligent manner, or that the accident occurred as a consequence thereof. In fact, the mechanical inspection reports and the site photographs together create a reasonable possibility that the complainant himself was at fault, and that the accident occurred due to negligent and rash driving on his part.



2025:DHC:9989



13. At this stage, it is also apposite to note that it is well settled that an appellate Court must be slow to interfere in an appeal against acquittal unless the findings of the Trial Court are shown to be perverse. The principle of double presumption of innocence, which operates in favour of an accused after acquittal by the Trial Court, must be duly respected¹.

14. Therefore, in view of the foregoing discussion, this Court finds no illegality or perversity in the impugned judgment. The view taken by the Trial Court is plausible, well-reasoned, and supported by the evidence on record. The present appeal is accordingly dismissed.

15. The personal bond furnished by the respondent stands cancelled.

16. A copy of this judgment be communicated to the Trial Court.

MANOJ KUMAR OHRI
(JUDGE)

NOVEMBER 06, 2025/nb

¹ Ravi Sharma Vs. State (NCT of Delhi), (2022) 8 SCC 536; and Anwar Ali v. State of H.P., (2020) 10 SCC 166