



2026:DHC:275



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

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*Reserved on: 28th October, 2025
Pronounced on: 13th January, 2026*

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CRL.A.1547/2025

THE STATE GOVT OF NCT OF DELHI

.....Petitioner

Through: Ms. Richa Dhawan, APP.

versus

SANJAY KUMAR

S/o Sh. Rajender Singh,
R/o Village Bajitpur,
P.O. Nangal Thakran, Delhi.

.....Respondent

Through: Mr. Sarvesh Tyagi, Adv.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Criminal Appeal under Section 378(1) of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) has been filed by the **Petitioner/State** against **Judgment of acquittal dated 30.05.2017**, whereby learned MM acquitted the **Respondent/Sanjay Kumar** for offence under Sections 279/304A Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*).

2. **Brief facts of the case** are that on 02.05.2007 at about 02:15 PM, Respondent/Sanjay Kumar was driving his school bus bearing No. DL1V5202 in a rash and negligent manner. The bus stopped in front of the Complainant's (Smt. Ratneesh Solanki) house and her daughter, Diksha Solanki deboarded the bus and immediately thereafter, bus driver raced the



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bus and hit into the **Complainant's son, master Aditya**, who was immediately rushed to the Hospital, where he was declared *brought dead*.

3. On the statement of Complainant/Smt. Ratneesh Solanki (mother of deceased child) present FIR No.45/2006 under Sections 279/304A IPC was registered at P.S. Prashant Vihar, Delhi.

4. On 05.02.2010, a **Notice** was framed by the learned ACMM against the accused under Sections 279/304A IPC, to which the accused pleaded *not guilty* and claimed trial.

5. The Prosecution, in support of its case, examined total **12 witnesses** in all.

6. **PW-2, Smt. Ratneesh Solanki (mother of deceased child)**, who was *also an eye-witness* and deposed that on 23.01.2006 at about 02:15 PM, she was standing in the balcony of her house and her son, Aditya was playing in the street. She saw the Respondent driving school bus, Ex.P1 in rash and negligent manner and hit her son. On her Complaint, Ex.PW-2/A, the present FIR No.45/2006 Ex.PW-2/B was registered.

7. **PW-3, Subhash Chand Solanki (father of deceased child)** went to Mortuary of BJRM Hospital and identified the dead body of his son, which was handed over to him *vide* handing over memo, Ex.PW-3/A.

8. **PW-9, Ms. Diksha Solanki (sister of deceased child)** was also an eye-witness, who deposed about deboarding the school bus on 23.01.2006 at 02:00 PM. She further deposed that her brother Aditya, who was aged 03 years and 03 months, was playing in the street just ahead of her house and was hit by the bus, because of which he sustained fatal injuries.

9. **PW-5, Rakesh Sharma**, Caretaker of Transport in Titiksha Public School was served under Section 133 Motor Vehicle Act, to which he gave a



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Reply Ex.PW-5/A, stating that the at the time of accident, bus was being driven by the respondent.

10. PW-8, ASI Devender Kumar (Retd.) conducted the Mechanical Inspection of the bus, Ex.PW-8/A.

11. PW-6, Anil Sharma, Record In-charge of Saroj Hospital, identified the signatures of Dr. Surender Rana and brought the MLC No.1439 dated 23.01.2006, Ex.PW-6/A.

12. PW-11, Dr. Anil Shandil, proved the Post-Mortem Report, Ex.PW-11/A and opined that cause of death was *Cranio Cerebral Damage resulting from head injury in road traffic accident*.

13. PW-1, H.C. Rishi Prakash (formal witness) was the duty officer who deposed that on 23.01.2006 at about 5:05 PM, he received a *rukka* from Ct. Banni Singh, on the basis of which he registered the FIR No. 45/2006, Ex.PW-1/A.

14. PW-10, H.C. Om Prakash, on receiving information about accident and the child being hit by a vehicle, recorded DD No.27, Ex.PW-10/A.

15. PW-4, Ct. Banni Singh along with PW-7 Ct. Radha Krishan and by PW-12/SI Balkishan, I.O. went to the spot and conducted initial investigations. He deposed that the I.O. served the Notice under Section 133 of Motor Vehicle Act to the Transport Officer of the School, who produced the offending vehicle and the driver of the bus. The bus was seized and Respondent was arrested *vide* Memo, Ex.PW-4/A. **PW-12 SI Balkishan**, I.O deposed about the registration of FIR and the investigations conducted and the filing of Chargesheet in the Court.

16. Statement of the Accused was recorded under **Section 313 Cr.P.C.** on 02.01.2017, where he asserted that the accident did not occur because of his



fault. He further claimed that he was not driving the vehicle on the date of accident. No defence evidence was led.

17. Learned MM referred to the testimony of PW-2/Smt. Ratneesh Solanki (mother of deceased child) and concluded that she could not have possibly be an eye-witness to the accident from the place where she claimed to be standing. It is also noted that there was no evidence to show that Respondent was on duty and driving the bus in a rash and negligent manner on the date of accident. *Therefore, the benefit of doubt was given to the Respondent and he was acquitted.*

18. *Aggrieved by the said acquittal, the present Appeal has been filed wherein the impugned Judgment of acquittal dated 30.05.2017, which has been challenged on the grounds* that both the witnesses had corroborated the case of Prosecution. Minor contradictions, inconsistencies or insignificant embellishments do not affect the core of the Prosecution's case. Rashness and negligence of the Respondent in driving the bus was duly proved from the testimony of eye-witnesses. It has not been appreciated that PW-2/Smt. Ratneesh Solanki (mother of deceased child) had come to the spot to pick her daughter, Diksha Solanki, as she had deboarded the school bus. The manner of accident has been sufficiently explained by both the eye-witnesses. There was no material contradiction in their respective testimonies.

19. Learned Trial Court has further wrongly concluded that there was no evidence to show that Respondent was driving the bus on the date of accident. *It is therefore, submitted that the acquittal be set aside and Respondent be convicted.*



20. The **Respondent in his Reply** has submitted that there were different versions of the Complainant during examination-in-chief and cross-examination, which raises doubt about the authenticity of her statement. Her version cannot be believed that she would have left her 03 years old child on the main road un-attended, while she herself was inside the house. How can a 03 year old child be left alone un-attended on the main road by a mother, which in fact, spells out negligence on the part of the mother.

21. Prosecution has failed to establish any negligence on the part of the Respondent as also there is no evidence to show that vehicle was being driven in a rash and negligent manner on the date of accident. Also, no independent witnesses have been examined by the prosecution. Testimony of the eye-witnesses is full of contradictions and is not believable.

22. *On merit*, all the grounds of Appeal are denied. It is submitted that the Respondent has been rightly acquitted by the Court and *there is no merit in the Appeal, which is liable to be dismissed.*

23. **Written submissions** have also been filed on behalf of Respondent on similar lines.

Submissions heard and record perused.

24. It is an unfortunate case where a 03 year old child lost his life in a road accident, on 23.01.2006. The case of the Prosecution is that the child had been hit by the school bus, which was being driven by the Respondent in rash and negligent manner, resulting into injuries to the child, which proved to be fatal.

25. *The first aspect of challenge is whether there are contradictions and improvements in the testimony of the Prosecution Witnesses.*



26. Prosecution, in support of its case, examined the first star witness **PW-2/Smt. Ratneesh Solanki (mother of deceased child)**, who deposed that on the date of accident, i.e. 23.01.2006, she was present on the first floor of her house, where her son Aditya was playing in the street. In the meantime, school bus came and hit him. She tried to stop the bus, but the driver ran away from the spot.

27. She was cross-examined by learned APP and she admitted that her daughter, Diksha Solanki had deboarded the offending bus before it hit her son. She further admitted that her son was playing at a distance of about 20-25 feet ahead of bus and bus driver had driving the bus at high speed before hitting her son.

28. In her cross-examination, PW-2 clarified she used to board her child to bus everyday but pick her up occasionally. She further admitted that when she was coming down the stairs, she saw the school bus hit her son and ran away from the spot. She denied that she had not seen the accident.

29. Prosecution has relied upon her testimony as eye-witness, who claimed that she was in the balcony of her house, while her daughter deboarded the bus. She further deposed that she had seen the accident happened, as she was coming down from the stairs. Incidentally, the house is at a distance of about 25-30 feet from the place of accident, as is evident from the *site plan, Ex.PW-12/M*.

30. From the bare perusal of the site plan, it is evident that PW-2/Smt. Ratneesh Solanki (mother of the deceased child), who was allegedly coming down from stairs of her flat from first floor, could not have possibly seen the accident, which happened on the right side of their house. Though, she has claimed to be an eye-witness, but the manner in which she claims to have



seen the accident, clearly establishes that she was not an eye-witness to the accident.

31. Second material witness is ***PW-9/Ms. Diksha Solanki (sister of deceased child)*** who has corroborated that on 23.01.2006 at about 02:15 PM, she deboarded the school bus in front of her house. Her brother Aditya, who was playing on the street just ahead of the house, was hit by the bus, which was being driven at high speed, which resulted in his death. PW-9 had further deposed that it was the front left side of the offending bus, which had hit her brother.

32. The testimony of PW-9 is fully corroborated by the site plan, which also shows that after dropping PW-9, the bus had moved forward and after moving about 20-25 feet hit into the child Aditya, which is indicated at Point 'B' of the site plan, Ex.PW-12/M. There is no material contradiction brought forth in her testimony.

33. *The Respondent had taken the defence that he was not driving the vehicle at the time of accident.*

34. In this regard, testimony of ***PW-5/Sh. Rakesh Sharma***, the Caretaker Transport in Titiksha Public School, is of relevance. He deposed that on 23.01.2006, i.e. date of accident, he had received a Notice under Section 133 Motor Vehicle, Ex.PW-5/A, on which he gave his Reply and disclosed the name of the driver of the school bus as Respondent/Sanjay Kumar. Respondent was produced in Police station along with the bus and he was arrested on the same day.

35. There is no material cross-examination of PW-5. Moreover, there is no suggestion whatsoever given to him about the bus being not driven by the Respondent at the time of the accident. In fact, he clarified that the



Respondent was driving that vehicle on the same route since one year prior to the time of incident.

36. Though, Respondent has asserted that he was not the driver the offending bus, but there is overwhelming evidence on record to establish that it was he, who was driving the offending bus at the time of accident.

37. Pertinently, PW-2/Smt. Ratneesh Solanki (mother of deceased child) had also deposed that in the evening when she went to the Police Station, Respondent/Sanjay Kumar was already there, who was arrested.

38. Having concluded that there was an accident caused by the bus driven by the Respondent, which led to the demise of the child, but most pertinent question, which remains to be answered is, ***whether the bus was being driven in rash and negligent manner.***

39. It is admitted that bus had stopped in front of the house of the Complainant to drop her daughter, Ms. Diksha Solanki and thereafter, it had barely moved 20-25 steps ahead, when the child Aditya, who was playing on the road, was hit by the bus. It has been rightly argued that the speed of the bus could not possibly been accelerated to such an extent that it could be termed *as rash or negligent*.

40. The site plan, Ex.PW-12/M reflects that the bus was plying along the left side of the road while the child was somewhat in the middle of the road at T-point. It is merely because the unfortunate accident occurred, in which the child lost his life, there can be not presumption of the rashness or negligence in the given circumstances. Even though, it is held that the accident was caused by the school bus being driven by the Respondent, but the element of rashness and negligent has not been established by the Prosecution through any cogent evidence.



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41. Therefore, for the reasons stated above, there is no ground for setting aside the impugned Judgment of acquittal dated 30.05.2017, whereby the Respondent/Sanjay Kumar has been acquitted.

42. The Appeal is **dismissed** along with pending Applications, if any.

(NEENA BANSAL KRISHNA)
JUDGE

JANUARY 13, 2026/R