



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

S.B. Criminal Appeal No. 74/1998

CNR: RJHC010004921997 | URN: CRLA / 241U / 1998



State

----Appellant

Versus

Papiya Alias Samartha Ram

----Respondent

For Appellant(s)	:	Mr. S.S. Rathore, PP
For Respondent(s)	:	Mr. Harshvardhan Singh

HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU

Order

03/10/2026

1. The State of Rajasthan has preferred the present criminal leave to appeal against the judgment dated 29.08.1997 passed by the learned Civil Judge (J.D.) & Judicial Magistrate, First Class, Sirohi in Criminal Case No.407/1994, whereby the accused-respondent Papiya @ Samartha ram was acquitted of offences under Sections 279, 337 and 304-A IPC, while being convicted under Section 3/181 of the Motor Vehicles Act and sentenced to pay a fine of Rs.300/-.

2. Briefly stated, the prosecution case is that on 16.08.1994 at about 4:30 P.M., the accused-respondent was driving Jeep No. RRT 4864 and, while driving the said vehicle rashly and negligently, struck Aji, as a consequence whereof he fell down and



got caught in the bumper of the Jeep and sustained injuries. Dinesh Kumar and Shivnath Singh thereafter took the injured to Kalandri Hospital. On completion of investigation, the accused-respondent was proceeded against for the aforesaid offences.

3. During trial, the prosecution examined its witnesses and produced the relevant documentary and other evidence. The accused-respondent, in his statement under Section 313 Cr.P.C., denied the allegations. The learned trial Court, upon appreciation of the evidence, found that the prosecution had failed to establish beyond reasonable doubt that the accused had driven the vehicle in a rash or negligent manner so as to attract Sections 279, 337 and 304-A IPC. However, the accused-respondent was convicted under Section 3/181 of the Motor Vehicles Act, as at the time of framing of charge he had admitted that he was driving the Jeep at the relevant time and did not possess a valid driving licence.

4. Learned Public Prosecutor submits that the learned trial Court has erred in appreciating the evidence of the prosecution witnesses, particularly the eyewitnesses, and has attached undue importance to the discrepancies regarding the distance and position from which the witnesses had seen the occurrence. It is submitted that the accused himself had admitted that he was driving the vehicle and, therefore, the prosecution case stood duly established.

5. Heard learned Public Prosecutor and perused the impugned judgment as well as the material available on record.



6. The scope of interference in an appeal against a judgment of acquittal is enunciated by the Hon'ble Supreme Court in the case of **Babu Sahebagouda Rudragoudar Vs. State of Karnataka, (2024) 8 SCC 149**, wherein, after considering the earlier judgment in **H.D. Sundara Vs. State of Karnataka, (2023) 9 SCC 581**, the Hon'ble Supreme Court has summarised the principles governing exercise of appellate jurisdiction in an appeal against acquittal as under:-

“8.1. The acquittal of the accused further strengthens the presumption of innocence;

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to re-appreciate the oral and documentary evidence;

8.3. The appellate court, while deciding an appeal against acquittal, after re-appreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;

8.4. If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and

8.5. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible.”

7. In the present case, the principal issue before the learned trial Court was not merely as to whether the accused-respondent was driving Jeep No. RRT 4864 at the relevant time. The prosecution was required to establish that the vehicle was being driven rashly or negligently and that such act satisfied the ingredients of Sections 279, 337 and 304-A IPC. The learned trial Court, upon appreciation of the evidence, noticed inconsistencies



in the testimony of the prosecution witnesses, particularly with regard to their respective positions and distances from the place of occurrence, and found the evidence insufficient to establish the manner of driving beyond reasonable doubt.

8. The admission of the accused-respondent that he was driving the Jeep at the relevant time and did not possess a valid driving licence may establish the factum of driving and absence of a valid licence, which was relevant for the offence under Section 3/181 of the Motor Vehicles Act. However, such admission by itself does not establish that the vehicle was being driven in a rash or negligent manner. The ingredients of the offences under Sections 279, 337 and 304-A IPC were required to be independently proved by the prosecution.

9. This Court has also examined the material available on record, including the statements of PW-1 Himaram, PW-2 Shantilal and PW-3 Shivnath Singh. A careful perusal of their statements does not disclose that they have stated that the vehicle was being driven by the accused-respondent in a rash or negligent manner. To constitute an offence under Section 279 IPC, the prosecution must establish that the accused was driving a vehicle on a public way in a manner so rash or negligent as to endanger human life or to be likely to cause hurt or injury to any other person. Similarly, for an offence under Section 337 IPC, it must be established that hurt was caused by an act done so rashly or negligently as to endanger human life or the personal safety of others. To attract Section 304-A IPC, the death must be the direct result of a rash or



negligent act of the accused, and such act must be the proximate and efficient cause of death. In the present case, as discussed hereinabove, the testimony of the prosecution witnesses does not establish that the accused-respondent was driving the vehicle in a rash or negligent manner. The mere fact that the accused-respondent was driving the vehicle at the time of the occurrence is not sufficient, by itself, to establish the aforesaid essential ingredients. Consequently, the prosecution has failed to prove the essential ingredients of the offences under Sections 279, 337 and 304-A IPC beyond reasonable doubt.

10. The State has primarily assailed the appreciation of the evidence by the learned trial Court and has contended that the discrepancies regarding the distances and positions of the witnesses were minor contradictions. The learned trial Court, however, considered the said evidence and recorded a finding that the prosecution had failed to establish the manner of driving so as to prove rashness or negligence beyond reasonable doubt. The grounds raised by the State, therefore, essentially seek re-appreciation of the evidence and substitution of the view taken by the learned trial Court.

11. Nothing has been brought on record before this Court to demonstrate that the findings recorded by the learned trial Court suffer from patent perversity, are based upon misreading or omission to consider material evidence, or that no two reasonable views are possible on the evidence available on record. The view



taken by the learned trial Court is a possible view which could reasonably be arrived at upon appreciation of the evidence.

12. In view of the aforesaid principles governing an appeal against acquittal, merely because another view of the evidence may be possible would not furnish sufficient ground for interference with the judgment of acquittal. The presumption of innocence of the accused-respondent stands further strengthened by his acquittal by the learned trial Court.

13. Consequently, this Court finds no ground to interfere with the judgment dated 29.08.1997 passed by the learned trial Court. The findings recorded therein do not suffer from any patent illegality or perversity warranting interference by this Court.

14. Accordingly, the **criminal appeal is dismissed**. The record of the learned trial Court be returned forthwith.

(BALJINDER SINGH SANDHU),J

4/Mayank Chouhan