

Delhi District Court

3.Title State vs . Kanhaiya Lal on 12 July, 2012

Author: Sh. Sunil Sharma

THE COURT OF SH. SUNIL KUMAR SHARMA
METROPOLITAN MAGISTRATE
TIS HAZARI COURTS : DELHI

1.

FIR No.	86/2000
2.Unique Case ID No.	02401R0172762000
3.Title	State Vs. Kanhaiya Lal
3(A).Name of complainant	ASI Brahmpal Singh, PS Moti Nagar, Delhi.
3(B).Name of accused	Kanhaiya Lal s/o Mangat Ram, r/o 11-T, Dhobi Ghat, Mahawat Khan, IP Estate, Delhi
4.Date of institution of challan	02.11.2000
5.Date of Reserving judgment	Pronounced on the same day
6.Date of pronouncement	12.07.2012
7.Date of commission of offence	13.08.2001
8.Offence complained of	Under Section 279/338 IPC
9.Offence charged with	Under Section 279/338 IPC
10.Plea of the accused	Pleaded not guilty
11.Final order	Accused acquitted U/sec 279/338 IPC

14. Date of receiving of judicial 13.09.2010 file in this court BRIEF REASONS FOR THE DECISION OF THE CASE:

1. The matrix of the prosecution case in a narrow compass is that on 28.02.2000 at about 08:55 PM in front of White House Banquet Hall, Najafgarh Road, New Delhi, the accused was driving TSR no. DL RA 6412 in a rash and negligent manner so as to endanger human life and personal safety of others and while driving the said vehicle in the above stated manner caused grievous hurt on the person of Pramod s/o Ram Dev and thereby committed an offence punishable u/s 279/338 IPC.

2. Charge sheet was filed in the Court. The compliance of Section 207 Cr.P.C. was ensured. The submissions of the prosecution and defence was heard and notice for the offence punishable u/s 279/338 IPC was framed against the accused on 13.08.2001, to which the accused pleaded not guilty and claimed trial.

3. Prosecution for proving its case against the accused persons could examine only three witnesses.

PW Subhash, Investigation witness.

PW HC Sunil Kumar, Duty Officer PW Retd. ASI Devender Singh, Mechanical Inspector. PW Subhash, Investigation witness have deposed that on 28.02.2000 after receipt of DD no. 24 A he along with SI Braham Singh went to the front of white house banquet hall, Najafgarh road and met

with Const. Devender and one TSR DL□RA□6412 was found in accidental condition. No eye witness was found on the spot and the injured was already shifted to the DDA hospital. They went to the DDU hospital and found the injured Pramod admitted in the hospital but was unfit to give his statements. No eye witness was found in the hospital. They came back on the spot. IO prepared the rukka and the present FIR was registered. The TSR was seized vide seizure memo no. PW1/A and the accused Kanhaiya Lal was arrested on 05.03.2000 and his driving license was also seized.

PW□2 HC Sunil Kumar, Duty Officer and has proved the carbon copy of FIR Ex. PW□2/A (OSR) and has deposed that on 29.02.00, the present FIR was registered by him on the receipt of a rukka sent by SI Brahmpal Singh brought by Const. Devender at about 02:30 AM. The witness has also deposed that he also made the endorsement on the rukka Ex. PW2/B. He had also lodged DD no. 24A Ex. PW2/C. Original of DD has been destroyed.

PW□3 Retd. ASI Devender Kumar is the Mechanical Inspector, has deposed that on 29.02.2000 the TSR no. DL□RA was mechanically inspected by him at the request of the IO SI B.P. Singh vide Ex. PW3/A bearing the signatures at point A.

4. No other prosecution witness was examined by the prosecution despite ample opportunities rather the prosecution fails to produce the eye witness Ranvijay and the injured Pramod Kumar in the Court stating that none of the aforesaid material prosecution witness is traceable. The detailed report of Additional DCP (West) District regarding the same was also placed on record. As the material prosecution witness are not produced by the prosecuting agency, the prosecution evidence was closed. Accused was examined u/s 281 Cr.P.C on 24.05.2012, wherein accused submits that he is innocent and has been falsely and wrongly implicated in this case. However, he denied to lead any evidence in defence.

5. I have heard Ld. APP for the State and Ld. Counsel for the accused. I have gone through the entire record carefully.

6. In order to prove the offence punishable u/s 279/338 IPC the prosecution was under an obligation to prove that the accused was rash and negligent while driving his TSR at the above said time and place and the injured suffered the injuries because of the rash and negligent driving of the accused.

7. The prosecution has examined three witnesses in support of its case against the accused person but the witnesses examined by the prosecution are of formal nature and are the witnesses of the investigation only as none of them had seen the commission of the offence. The material prosecution witness i.e. the complainant Sh. Pramod Kumar and the eye witness Sh. Ran Vijay remains untraceable and could not be produced and the witnesses examined by the prosecution are more or less formal in nature who are not connected with the facts in issue. In the absence of the deposition of the eye witness or the injured the rash and negligent act as alleged by the prosecution cannot be attributed to the accused persons.

8. Accordingly the prosecution has failed to prove that the accused was rash or negligent in his driving at the relevant point of time and the injured suffered injuries because of the rashness of the accused.

9. Accordingly, the accused Kanhaiya Lal s/o Mangat Ram stands acquitted for the offences U/sec 279/338 IPC.

10. Surety bond discharged, bail bond canceled, file be consigned to record room after due compliance.

Announced in the
Open Court on 12.07.2012

(Sunil Kumar Sharma)
Metropolitan Magistrate
Delhi

It is certified that this judgment contains five pages and each page bears my signature.

(Sunil Kumar Sharma) Metropolitan Magistrate Delhi FIR 86/00 PS Moti Nagar U/sec 279/338 IPC
12.07.2012 Present : Ld. APP for the State Accused in person with counsel.

Final arguments heard today.

Vide separate judgment dictated and pronounced today in the open Court, accused stands acquitted for the offence punishable U/sec 279/338 IPC.

Surety bonds discharged, bail bonds cancelled, file be consigned to record room after due compliance.

(Sunil Kumar Sharma) Metropolitan Magistrate (West Delhi), Delhi, 12.07.2012.