THE HIGH COURT OF SIKKIM: GANGTOK

(Criminal Revisional Jurisdiction)

SINGLE BENCH: BHASKAR RAJ PRADHAN, JUDGE.

Crl. Rev. P. No. 03 of 2017

Shri Suren Gurung,
S/o Shri Ganga Ram Gurung,
R/o Makaibari, Rongli,
East Sikkim.

.... Revisionist

versus

State of Sikkim

.... Respondent

Application under Section 397 and 401 read with Section 482 of the Criminal Procedure Code, 1973.

Appearance:

Mr. Ajay Rathi, Mr. Rahul Rathi, and Ms. Phurba Diki Sherpa, Advocates for the Revisionist.

Mr. S. K. Chettri Assistant Public Prosecutor for the State-Respondent.

JUDGMENT

(11.04.2018)

Bhaskar Raj Pradhan, J

1. On 15.04.2013 around 10:40 hours one taxi vehicle (Scorpio) bearing registration No. Sk.01J/1501 driven by Suren Gurung, the Revisionist herein, was on the way from Rongli to Gangtok. The Revisionist parked the car to attend to natures call. Few passengers also alighted. Thereafter, the said vehicle

rolled back and tumbled about 100 meters below the road at 5th Mile on Rorathang-Rangpo Road. One Bikram Rai succumbed to his injuries sustained in the accident while other occupants sustained bodily injuries, both grievous as well as simple.

2. On 15.04.2013 on receipt of the information a First Information Report (FIR) was registered and the investigation taken up.

3. Charge-sheet No.8 dated 26.07.2013 was filed against the Revisionist on finding *prima facie* offences made out under Section 279, 304-A, 338, 337 Indian Penal Code, 1860 (IPC) read with Section 3, 9 III (b) of Motor Vehicles Act, 1988 although in the Final Form/Report under Section 173 Cr.P.C. under the head *"(xvi) Under Act/s & Sections: 304-A/279/336/337/IPC r/w 183/184 CMM Act, 1988."* has been endorsed.

4. On 6.05.2014 the Learned Chief Judicial Magistrate, East & North Sikkim at Gangtok framed five substance of accusations under Section 287, 304-A, 337, 338 IPC and Section 181 Motor Vehicles Act, 1988 to which the Revisionist pleaded not guilty and claimed trial.

5. In the trial that commenced the Prosecution examined ten witnesses including the Investigating Officer. The examination of the Revisionist under Section 313 of the Code of Criminal Procedure (Cr.P.C.) was conducted on 19.08.2016.

6. On 04.11.2016 the Learned Chief Judicial Magistrate rendered his judgment and convicted the Revisionist for offences punishable under Section 287, 304-A, 337 and 338 of IPC. However, the Revisionist was acquitted for offence under Section 181 of the Motor Vehicles Act, 1988.

7. On 11.11.2016 the Learned Chief Judicial Magistrate sentenced the Revisionist to simple imprisonment of three months for offence under Section 287 IPC; a fine of Rs.500/- for offence under Section 337 and to undergo simple imprisonment of twenty days for failure to pay the fine; a fine of Rs.1000/- for offence under Section 338 of IPC and to undergo simple imprisonment of twenty days for failure to pay the fine; and rigorous imprisonment of six months for offence under Section 304-A IPC and a fine of Rs.2000/- and to undergo rigorous imprisonment of one month for failure to pay the fine. All sentences were to run concurrently.

8. Aggrieved by the judgment dated 04.11.2016 and sentence dated 11.11.2016 rendered by the Learned Chief Judicial Magistrate the Revisionist preferred an appeal under Section 374 (3) (a) Cr.P.C. before the Court of the Learned Sessions Judge, East & North Sikkim at Gangtok being Criminal Appeal No. 08 of 2016.

9. The Learned Sessions Judge vide judgment dated 06.06.2017 declined to interfere with the conviction and upheld the judgment and sentences impugned in the appeal.

10. Dissatisfied by the said judgment dated 06.06.2017 passed by the Learned Sessions Judge in Criminal Appeal No. 08 of 2016 the Revisionist has preferred the present revision application under Section 397 and 401 read with Section 482 Cr.P.C.

11. Heard Mr. Ajay Rathi, Learned Counsel appearing for the Revisionist as well as Mr. S. K. Chettri, Assistant Public Prosecutor appearing for the State-Respondent. Both the Learned Counsels representing the respective parties led this Court extensively to the evidence on record and advanced their respective submissions. Mr. Ajay Rathi propounded that in a criminal case the burden lies on the prosecution to prove every ingredient of the offences charged and the accused is to be considered innocent until proven guilty. This is a salutary principal in criminal jurisprudence and the prosecution may not need to quarrel with the defence on this point. He further submitted that the present case is a case in which the Revisionist ought to be given the benefit of doubt. *Per contra,* Mr. S. K. Chettri asserts that the prosecution has been able to establish its case beyond reasonable doubt before the Trial Court as well as the appellate Court and therefore, the impugned judgment may not be interfered with.

12. As the Revisionist has been found guilty and convicted under Sections 287, 337, 338 and 304-A IPC it is necessary to examine the ingredients of the said provisions.

13. Section 287 IPC reads thus:

> ***"287. Negligent conduct with respect to machinery***.— *Whoever does, with any machinery, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,*
>
> *or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery,*
>
> *shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.***"**
>
> *[Emphasis supplied]*

14. Section 287 IPC uses the word *"machinery"* but however, does not define it. The word *"machinery"* thus needs to be understood in its ordinary sense. The following are the dictionary meanings assigned to the word *"machinery"* or *"machine":-*

(i) The Black's Law Dictionary, Tenth Edition defines the word *"machine"* thus:-

> ***"machine****. (16c) Patents. A device or apparatus consisting of fixed and moving parts that work together to perform some function. Machines are one of the statutory categories of inventions that can be patented.-Also termed apparatus; device. Cf. MANUFACTURE; PROCESS (3).***"**

(ii) The Webster's Dictionary of the English Language, Unabridged, Encyclopaedic Edition defines the word *"Machine"* as:

> ***"Machine",*** *n. [Fr. Machine: L. machine; Gr. mēchanē, a machine, engine, device.]*

1. ……..
2. *(a) a vehicle, as, formerly, a carriage, cart, etc.; b) a vehicle operated mechanically; specifically, an automobile.*

3. *a structure consisting of a frame work and various fixed and moving parts, for doing some kind of work; mechanism; as, a sewing machine.*
4. ……..
5. ……..
6. ……..
7. ……..
8. *in mechanics, a device that transmits, or changes the application of, energy; the lever, wheel, and screw are called simple machines.***"**

(iii) The Chambers Thesaurus, 2007 Edition defines *"Machine"* and *"Machinery"* as:

"machine *n.*

1. *INSTRUMENT, device, Contrivance, tool, Contraption, mechanism, engine, motor, apparatus, appliance, gadget, hardware*

2. *AGENCY, organization, structure, instruments, tool, organ, vehicle, influence, catalyst, system, workings*

3. *AUTOMATION, robot, mechanical person, tool, mechanism, zombie, android***"**

"machinery *n.*

1. *INSTRUMENT, Mechanism, tools, apparatus, equipment, tackle, gear, gadgetry*

2. *ORGANIZATION, channel (s), structure, system, procedure, workings, agency***"**

(iv) The Concise Oxford English Dictionary, Indian Edition defines *"machine"* as:

"machine ■ *n.*

1. an apparatus using mechanical power and having several parts, each with a definite function and together performing a particular task. ► *Technical any device that transmits a force or directs its application*

*2. ……***"**

15. The Motor Vehicles Act, 1988 Section 2(28) reads thus:

> ***"2(28)*** *"motor vehicle" or "vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding [1][twenty-five cubic centimetres];"*

16. In view of the definition of the words *"machine"* or *"machinery"* in its ordinary grammatical sense and the definition of the word *"motor vehicle"* or *"vehicle"* in section 2(28) of the Motor Vehicles Act, 1988 all motor vehicles are machines but all machines may not be motor vehicles. The word *"machine"* would include within its definition *"motor vehicles"* also for the purpose of Section 287 IPC.

17. To fall within the mischief of Section 287 IPC an accused must have done, with any machinery, any act so *"rashly and negligently"* as to endanger human life, or to be likely to cause hurt or injury to any person. Section 287 IPC also makes the *"knowingly or negligently"* omitting to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery an offence. The first part of Section 287 IPC thus deals with the *"rash and negligent"* act with the machinery endangering human life or to be likely to cause hurt or injury to any person. The second part of 287 IPC deals with *"knowingly and negligently"* omitting to take such order with the machinery

in his possession or under his care. Section 287 IPC thus deals with negligent conduct with respect to machinery.

18. In re: ***Mohri Ram v. Emperor***[1] cited by Mr. S. K. Chettri, the Lahore High Court dealt with the provision of Section 287 IPC in this manner:

> ***"****..... I am of opinion that both these petitioners are liable to be punished under S. 287 I. P. C. because they were in possession of and had the care of the flour mill and consequently of the belting which was the cause of this accident, and it is obvious that they omitted to take care of such machinery negligently as was sufficient to guard against probable danger to human life. They should have known that by leaving the belting protruding outside the building and without fencing there was danger to persons who might be passing near the belting.I alter their conviction to S. 287, I. P. C. and reduce their sentences of fine to Rs. 250/- in the case of Mohri Ram and Rs.150/- in the case of Munshi Ram; in default of payment of fine they will both suffer rigorous imprisonment for three months each.****"***
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> *[Emphasis supplied]*

19. A reading of Section 287 IPC and the judgment of the Lahore High Court in re: ***Mohri Ram (supra)*** makes it clear that the word *"order"* in the phrase *"omits to take such order"* used in the second part of Section 287 IPC would also imply arrangement and thus the failure to make adequate arrangement with the machinery would also fall within its mischief if the failure is done *"knowingly"* or *"negligently"*. Thus, in order to make the omission to take such order with any machinery liable for punishment under this part of Section 287 IPC it must necessarily be proved that the accused had failed or omitted to take such order or make such arrangement with the machinery *"knowingly or negligently"* as is sufficient to

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[1] **AIR 1930 Lahore 453**

guard against any probable danger to human life from such machinery.

20. Section 337 IPC reads thus:

> ***"337. Causing hurt by act endangering life or personal safety of others.***—*Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.***"**
>
> *[Emphasis supplied]*

21. Section 338 IPC reads thus:

> ***"338. Causing grievous hurt by act endangering life or personal safety of others.***—*Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.***"**
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> *[Emphasis supplied]*

22. It would be noticed that the difference between Section 337 and Section 338 IPC is the extent of hurt. Whereas an act to fall within Section 337 IPC hurt must be caused, to fall within Section 338 IPC the act must result in grievous hurt. The act in both the sections must be "*rash and negligent*" as to "*endanger human life, or the personal safety of others*". It is evident therefore, that the *"rash and negligent"* act of the accused must be to such an extent that it should endanger human life, or the personal safety of others. If the "*rash and negligent*" act complained of is to such an extent then for the purpose of Section 337 IPC it must result in hurt and for the purpose of Section 338 IPC it must result in grievous hurt.

23. In re: ***Alister Anthony Pareira v. State of Maharashtra***[2] the Supreme Court examined the provisions of Section 304-A, 337 and 338 and explained it thus:

> *"**37.** In Empress of India v. Idu Beg [ILR (1881) 3 All 776] Straight, J. explained the meaning of criminal rashness and criminal negligence in the following words: (ILR pp. 779-80)*
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> > *"... criminal rashness is hazarding a dangerous or wanton act with the knowledge that it is so, and that it may cause injury, but without intention to cause injury, or knowledge that it will probably be caused. The criminality lies in running the risk of doing such an act with recklessness or indifference as to the consequences. Criminal negligence is the gross and culpable neglect or failure to exercise that reasonable and proper care and precaution to guard against injury either to the public generally or to an individual in particular, which, having regard to all the circumstances out of which the charge has arisen, it was the imperative duty of the accused person to have adopted."*
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> *The above meaning of criminal rashness and criminal negligence given by Straight, J. has been adopted consistently by this Court.*
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> ***38.** Insofar as Section 304-A IPC is concerned, it deals with death caused by doing any rash or negligent act where such death is caused neither intentionally nor with the knowledge that the act of the offender is likely to cause death. The applicability of Section 304-A IPC is limited to rash or negligent acts which cause death but fall short of culpable homicide amounting to murder or culpable homicide not amounting to murder. An essential element to attract Section 304-A IPC is death caused due to rash or negligent act. The three things which are required to be proved for an offence under Section 304-A are:*
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> > *(1) death of human being;*
> >
> > *(2) the accused caused the death; and*
> >
> > *(3) the death was caused by the doing of a rash or negligent act, though it did not amount to culpable homicide of either description.*
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> ***39.** Like Section 304-A, Sections 279, 336, 337 and 338 IPC are attracted for only the negligent or rash act. The scheme of Sections 279, 304-A, 336, 337 and 338 leaves no manner of doubt that these offences are punished because of the inherent danger of the acts specified therein irrespective of knowledge or intention to produce the result and irrespective of the result. These sections make punishable the acts themselves which are likely to cause death or injury to human life.***"**

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[2] **(2012) 2 SCC 648**

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> ***78.*** *We have also carefully considered the evidence let in by the prosecution—the substance of which has been referred to above—and we find no justifiable ground to take a view different from that of the High Court. We agree with the conclusions of the High Court and have no hesitation in holding that the evidence and materials on record prove beyond reasonable doubt that the appellant can be attributed with knowledge that his act of driving the vehicle at a high speed in a rash or negligent manner was dangerous enough and he knew that one result would very likely be that people who were asleep on the pavement may be hit, should the vehicle go out of control.****"***

24. Section 304-A IPC reads thus:

> ***"304-A. Causing death by negligence****.—Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."*
>
> *[Emphasis supplied]*

25. To fall within the mischief of Section 304-A IPC death must be the result of the *"rash and negligent"* act although without intention to cause death, nor knowledge that the act done will in all probability result into death. However, the rashness must be so reckless or indifferent and the negligence must be so gross or culpable that it would result in the death of another person.

26. As the IPC has not defined what is *"rash and negligent"* it is incumbent to understand and appreciate the phrase in criminal jurisprudence. It is also equally vital to understand and appreciate the difference of the said phrase *"rash and negligent"* in civil action and criminal cases.

27. The Supreme Court in re: ***Mahadev Prasad Kaushik v. State of U.P.***[3] has explained Section 304-A IPC thus:

> *"**23.** Section 304-A was inserted by the Penal Code (Amendment) Act, 1870 (Act 27 of 1870) and reads thus:*
>
> > *"304-A. Causing death by negligence.—Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."*
>
> *The section deals with homicidal death by rash or negligent act. It does not create a new offence. It is directed against the offences outside the range of Sections 299 and 300 IPC and covers those cases where death has been caused without intention or knowledge. The words "not amounting to culpable homicide" in the provision are significant and clearly convey that the section seeks to embrace those cases where there is neither intention to cause death, nor knowledge that the act done will in all probability result into death. It applies to acts which are rash or negligent and are directly the cause of death of another person.*
>
> ***24.** There is thus distinction between Section 304 and Section 304-A. Section 304-A carves out cases where death is caused by doing a rash or negligent act which does not amount to culpable homicide not amounting to murder within the meaning of Section 299 or culpable homicide amounting to murder under Section 300 IPC. In other words, Section 304-A excludes all the ingredients of Section 299 as also of Section 300. Where intention or knowledge is the "motivating force" of the act complained of, Section 304-A will have to make room for the graver and more serious charge of culpable homicide not amounting to murder or amounting to murder as the facts disclose. The section has application to those cases where there is neither intention to cause death nor knowledge that the act in all probability will cause death."*

28. In re: ***Sushil Ansal v. State through Central Bureau of Investigation*** [4] the Supreme Court would examine Section 304-A IPC and held as under:

> ***"(ii) "Rash" or "negligent" — Meaning of***
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> ***56.** Section 304-A IPC makes any act causing death by a rash or negligent act not amounting to culpable homicide, punishable with imprisonment of either description for a term which may extend to two years or with fine or with both. It reads:*

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[3] **(2008) 14 SCC 479**

[3] **(2014) 6 SCC 173**

*"**304-A. Causing death by negligence**.—Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."*

***57.** The terms "rash" or "negligent" appearing in Section 304-A extracted above have not been defined in the Code. Judicial pronouncements have all the same given a meaning which has been long accepted as the true purport of the two expressions appearing in the provisions. One of the earliest of these pronouncements was in Empress of India v. Idu Beg [Empress of India v. Idu Beg, ILR (1881) 3 All 776] , where Straight, J. explained that in the case of a rash act, the criminality lies in running the risk of doing an act with recklessness or indifference as to consequences. A similar meaning was given to the term "rash" by the High Court of Madras in Nidamarti Nagabhushanam, In re [Nidamarti Nagabhushanam, In re, (1871-74) 7 Mad HCR 119] , where the Court held that culpable rashness meant acting with the consciousness that a mischievous and illegal consequence may follow, but hoping that it will not. Culpability in the case of rashness arises out of the person concerned acting despite the consciousness. These meanings given to the expression "rash", have broadly met the approval of this Court also as is evident from a conspectus of decisions delivered from time to time, to which we shall presently advert. But before we do so, we may refer to the following passage from A Textbook of Jurisprudence by George Whitecross Paton reliance whereupon was placed by Mr Jethmalani in support of his submission. Rashness according to Paton means:*

"where the actor foresees possible consequences, but foolishly thinks they will not occur as a result of his act".

(emphasis supplied)

***58.** In the case of "negligence" the courts have favoured a meaning which implies a gross and culpable neglect or failure to exercise that reasonable and proper care and precaution to guard against injury either to the public generally or to an individual which having regard to all the circumstances out of which the charge arises, it may be the imperative duty of the accused to have adopted. Negligence has been understood to be an omission to do something which a reasonable man guided upon those considerations which ordinarily regulate the conduct of human affairs, would do, or doing something which a prudent and reasonable person would not do. Unlike rashness, where the imputability arises from acting despite the consciousness, negligence implies acting without such consciousness, but in circumstances which show that the actor has not exercised the caution incumbent upon him. The imputability in the case of negligence arises from the neglect of the civil duty of circumspection."*

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***72.** To sum up, negligence signifies the breach of a duty to do something which a reasonably prudent man would under the circumstances have done or doing something which when judged from reasonably prudent standards should not have been done. The essence of negligence whether arising from an act of commission or omission lies in neglect of care towards a person to whom the defendant or the accused as the case may be owes a duty of care to prevent damage or injury to the property or the person of the victim.*

The existence of a duty to care is thus the first and most fundamental of ingredients in any civil or criminal action brought on the basis of negligence, breach of such duty and consequences flowing from the same being the other two. It follows that in any forensic exercise aimed at finding out whether there was any negligence on the part of the defendant/accused, the courts will have to address the above three aspects to find a correct answer to the charge.

(iv) Difference between negligence in civil actions and in criminal cases

73. *Conceptually the basis for negligence in civil law is different from that in criminal law, only in the degree of negligence required to be proved in a criminal action than what is required to be proved by the plaintiff in a civil action for recovery of damages. For an act of negligence to be culpable in criminal law, the degree of such negligence must be higher than what is sufficient to prove a case of negligence in a civil action. Judicial pronouncements have repeatedly declared that in order to constitute an offence, negligence must be gross in nature. That proposition was argued by Mr Ram Jethmalani at great length relying upon the English decisions apart from those from this Court and the High Courts in the country. In fairness to Mr Salve, counsel appearing for CBI and Mr Tulsi appearing for the Association of Victims, we must mention that the legal proposition propounded by Mr Jethmalani was not disputed and in our opinion rightly so. That negligence can constitute an offence punishable under Section 304-A IPC only if the same is proved to be gross, no matter the word "gross" has not been used by Parliament in that provision is the settled legal position. It is, therefore, unnecessary for us to trace the development of law on the subject, except making a brief reference to a few notable decisions which were referred to at the Bar.*

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78. *There is no gainsaying that negligence in order to provide a cause of action to the affected party to sue for damages is different from negligence which the prosecution would be required to prove in order to establish a charge of "involuntary manslaughter" in England, analogous to what is punishable under Section 304-A IPC in India. In the latter case it is imperative for the prosecution to establish that the negligence with which the accused is charged is "gross" in nature no matter that Section 304-A IPC does not use that expression. What is "gross" would depend upon the fact situation in each case and cannot, therefore, be defined with certitude. Decided cases alone can illustrate what has been considered to be gross negligence in a given situation.***"**

29. *"Rash and negligent"* act is the integral ingredient of all the afore-quoted provisions of law. To hold an accused criminally liable under the aforesaid provisions it is essential to prove that the act of the accused is a *"rash and negligent"* act. The meaning of the phrase used in the afore-quoted provisions i.e.

"rash and negligent" must necessary be the same in all the said provision.

30. In re: ***Emperor v. Omkar Ram Pratap***[5] it was observed by Sir Lawrence Jenkins that: *"To impose criminal liability under Section 304-A, Indian Penal Code, it is necessary that the death should have been the direct result of a rash and negligent act of the accused, and that act must be the proximate and efficient cause without the intervention of another's negligence. It must be the causa causans*; *it is not enough that it may have been the causa sine qua non."* This view has been followed by the Supreme Court in several decisions including in re: ***Kurban Hussein Mohammedali Rangwala v. State of Maharashtra***[6] ***Suleman Rehiman Mulani & Anr. v. State of Maharashtra*** [7].

31. "*Causa"* in latin means cause. *"Causa causans"* means an immediate or effective cause. "*Causa sine qua non"* means a necessary cause; the cause without which the thing cannot be or the event would not have occurred. (Black's Law Dictionary, Tenth Edition). Therefore, it is clear that the *"rash and negligent"* act must be the immediate or effective cause and it is not enough that it was the necessary cause or the cause without which the event would not have occurred.

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[5] **(1902) 4 Bom LR. 679**
[6] **(1965) 2 SCR 622**
[7] **(1968) 2 SCR 515**

32. In re: ***Ambalal D. Bhatt v. The State of Gujarat*** [8] it was held that in a prosecution for an offence under Section 304-A of IPC, the Court has to examine whether the alleged act of the accused is the direct result of a rash and negligent act and that act was the proximate and efficient cause of the death without intervention of others negligence.

33. In re: ***Sushil Ansal v. State through Central Bureau of Investigation***[9] the Supreme Court has lucidly explained the doctrine of *causa causans* thus:-

> ***(v) Doctrine of causa causans***
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> ***80.*** *We may now advert to the second and an equally, if not, more important dimension of the offence punishable under Section 304-A IPC viz. that the act of the accused must be the proximate, immediate or efficient cause of the death of the victim without the intervention of any other person's negligence. This aspect of the legal requirement is also settled by a long line of decisions of the courts in this country. We may at the outset refer to a Division Bench decision of the High Court of Bombay in Emperor v. Omkar Rampratap [(1902) 4 Bom LR 679] where Sir Lawrence Jenkins speaking for the Court summed up the legal position in the following words:*
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> > *"… to impose criminal liability under Section 304-A of the Indian Penal Code, it is necessary that the act should have been the direct result of a rash and negligent act of the accused and that act must be proximate and efficient cause without the intervention of another negligence. It must have been the causa causans; it is not enough that it may have been the causa sine qua non."*
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> *The above statement of law was accepted by this Court in Kurban Hussein Mohamedalli Rangawalla v. State of Maharashtra [Kurban Hussein Mohamedalli Rangawalla v. State of Maharashtra, AIR 1965 SC 1616 : (1965) 2 Cri LJ 550 : (1965) 2 SCR 622] . We shall refer to the facts of this case a little later especially because Mr Jethmalani, learned counsel for the appellant Sushil Ansal, placed heavy reliance upon the view this Court has taken in the fact situation of that case.*
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> ***81.*** *Suffice it to say that this Court has in Kurban Hussein case [Kurban Hussein Mohamedalli Rangawalla v. State of Maharashtra, AIR 1965 SC 1616 : (1965) 2 Cri LJ 550 : (1965) 2 SCR 622] accepted in unequivocal terms the correctness of the proposition that criminal liability under Section 304-A IPC shall arise only if the prosecution*

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[8] **(1972) 3 SCC 525**
[9] **(2014) 6 SCC 173**

proves that the death of the victim was the result of a rash or negligent act of the accused and that such act was the proximate and efficient cause without the intervention of another person's negligence. A subsequent decision of this Court in Suleman Rahiman Mulani v. State of Maharashtra [Suleman Rahiman Mulani v. State of Maharashtra, AIR 1968 SC 829 : 1968 Cri LJ 1013] has once again approved the view taken in Omkar Rampratap case [(1902) 4 Bom LR 679] that the act of the accused must be proved to be the causa causans and not simply a causa sine qua non for the death of the victim in a case under Section 304-A IPC. To the same effect are the decisions of this Court in Rustom Sherior Irani v. State of Maharashtra [Rustom Sherior Irani v. State of Maharashtra, 1969 ACJ 70 (SC)] , Bhalchandra v. State of Maharashtra [Bhalchandra v. State of Maharashtra, AIR 1968 SC 1319 : (1968) 3 SCR 766 : 1968 Cri LJ 1501] , Kishan Chand v. State of Haryana [(1970) 3 SCC 904] , S.N. Hussain v. State of A.P. [S.N. Hussain v. State of A.P., (1972) 3 SCC 18 : 1972 SCC (Cri) 254] , Ambalal D. Bhatt v. State of Gujarat [(1972) 3 SCC 525 : 1972 SCC (Cri) 618] and Jacob Mathew case [Jacob Mathew v. State of Punjab, (2005) 6 SCC 1 : 2005 SCC (Cri) 1369] .

82. *To sum up: for an offence under Section 304-A to be proved it is not only necessary to establish that the accused was either rash or grossly negligent but also that such rashness or gross negligence was the causa causans that resulted in the death of the victim.*

83. *As to what is meant by causa causans we may gainfully refer to Black's Law Dictionary (5th Edn.) which defines that expression as under:*

> *"Causa causans.—The immediate cause; the last link in the chain of causation."*

The Advance Law Lexicon edited by Justice Chandrachud, former Chief Justice of India defines causa causans as follows:

> *"Causa causans.—The immediate cause as opposed to a remote cause; the 'last link in the chain of causation'; the real effective cause of damage."*

84. *The expression "proximate cause" is defined in the 5th Edn. of Black's Law Dictionary as under:*

> *"Proximate cause.—That which, in a natural and continuous sequence, unbroken by any efficient intervening cause, produces injury and without which the result would not have occurred. Wisniewski v. Great Atlantic & Pacific Tea Co. [226 Pa Super 574 : 323 A2d 744 (1974)] , A2d at p. 748. That which is nearest in the order of responsible causation. That which stands next in causation to the effect, not necessarily in time or space but in causal relation. The proximate cause of an injury is the primary or moving cause, or that which, in a natural and continuous sequence, unbroken by any efficient intervening cause, produces the injury and without which the accident could not have happened, if the injury be one which might be reasonably anticipated or foreseen as a natural consequence of the wrongful act. An injury or damage is proximately caused by an act, or a failure to act, whenever it appears from the evidence in the case, that the act or omission played a substantial part in bringing about or actually causing the injury or damage; and that the injury or damage was either*

> *a direct result or a reasonably probable consequence of the act or omission.*

34. Mr. S. K. Chettri, Assistant Public Prosecutor for the State-Respondent citing a judgment of the Supreme Court in re: ***Duli Chand v. Delhi Administration***[10] submitted that since there are concurrent findings of fact the jurisdiction of the High Court in a criminal revision application is severely restricted and it cannot embark upon a re-appreciation of evidence.

35. In re: ***State of Maharashtra v. Jagmohan Singh Kuldip Singh Anand & Ors.*** with ***Satish Kaur Sahni v. Jagmohan Singh Kuldip Singh Anand & Ors.***[11] the Supreme Court has held:-

> *"**22.** The revisional court is empowered to exercise all the powers conferred on the appellate court by virtue of the provisions contained in Section 401 CrPC. Section 401 CrPC is a provision enabling the High Court to exercise all powers of an appellate court, if necessary, in aid of power of superintendence or supervision as a part of power of revision conferred on the High Court or the Sessions Court. Section 397 CrPC confers power on the High Court or Sessions Court, as the case may be,*
>
> > *"for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior court".*
>
> *It is for the above purpose, if necessary, the High Court or the Sessions Court can exercise all appellate powers. Section 401 CrPC conferring powers of an appellate court on the revisional court is with the above limited purpose. The provisions contained in Section 395 to Section 401 CrPC, read together, do not indicate that the revisional power of the High Court can be exercised as a second appellate power.*
>
> ***23.** On this aspect, it is sufficient to refer to and rely on the decision of this Court in Duli Chand v. Delhi Admn. [(1975) 4 SCC 649 : 1975 SCC (Cri) 663 : AIR 1975 SC 1960] in which it is observed thus: (SCC p. 651, para 5)*
>
> > *"The High Court in revision was exercising supervisory jurisdiction of a restricted nature and, therefore, it would have been justified in refusing to reappreciate the evidence for the*

[10] **(1975) 4 SCC 649**
[11] **(2004) 7 SCC 659**

purposes of determining whether the concurrent finding of fact reached by the learned Magistrate and the learned Additional Sessions Judge was correct. But even so, the High Court reviewed the evidence presumably for the purpose of satisfying itself that there was evidence in support of the finding of fact reached by the two subordinate courts and that the finding of fact was not unreasonable or perverse."

24. *It is necessary to note that in the case of Duli Chand [(1975) 4 SCC 649: 1975 SCC (Cri) 663 : AIR 1975 SC 1960] the High Court had reappreciated the whole evidence and confirmed the findings of the two courts below. This Court, therefore, did not interfere with them.***"**

36. Mr. Ajay Rathi, drew the attention of this Court to the evidence of a vital prosecution witness Bijay Gurung (P.W.2) who was one of the occupants of the vehicle driven by the Revisionist from Rongli for going to Gangtok. Bijay Gurung (P.W.2) identified the Revisionist in Court. He stated that:-

"*I know the accused present before the Court. On 15.04.2013. I along with my family members boarded the vehicle driven by the accused from Rongli for going to Gangtok. On reaching Kumrek the accused driver stopped the vehicle on the way and went for short toilet. At that time, the vehicle which we had boarded suddenly started moving and fell below the road. I along with other passengers travelling in the said vehicle also fell along with the vehicle. From the PO I along with the others were evacuated to Rangpo hospital from where I was referred to CRH, Tadong. In the said accident I sustained fracture, injury on my left leg and I had to undergo 17 stitches on my right. I was admitted in the hospital for 2 months for the treatment of my injuries sustained in the said accident.*

xxx on behalf of the accused

*It is not a fact that on 15.04.2013 I did not board the vehicle driven by the accused from Rongli towards Gangtok. It is true that I was seated at the back seat of the vehicle i.e., Scorpio. It is true that on the relevant day of 15.04.2013 the vehicle/driver/accused person and some of the passengers had stopped at the PO to attend the call of the nature. It is true that there were other vehicles already parked in front of our vehicle at the PO. I do not know if the accused person had pulled the handbrake of the vehicle. I also do not know if the accused had put a stone at the back side of the tyre to stop the flow. It is true that I was listening to the music being played inside the vehicle. It is true that three persons including the driver had gone out of the vehicle and the rest (7) of the passengers were in the vehicle. It is true that the accused drove the vehicle smoothly from Rongli to PO. It is true that movement among the sudden passengers inside the vehicle cause the same to flow backwards towards the cliff, the PO was an uphill road. I cannot say if the vehicle had back flowed due to the negligence of the accused person. It is not a fact that I am deposing falsely.***"**

[Emphasis supplied]

37. The Learned Chief Judicial Magistrate in his judgment dated 04.11.2016 has dealt with this crucial evidence in this manner:

> **"***the argument that the passengers contributed the roll because of their movement inside is fallible, as no passenger can be expected to sit like an inanimate object inside a vehicle, in fact long sittings at a same place inclines any person to adjust his sittings more so when the vehicle is halted, this cannot at all be termed as contributory negligence. A vehicle is not manufactured even ordinarily not to withstand the movement of the passengers occupying it if sufficient care and precaution is taken to secure any slipping of the vehicle by the movement of the passengers occupying it. The evidence clearly prove beyond reasonable doubt that the act of the accused was negligent culpable in nature.***"**

38. The Learned Chief Judicial Magistrate has dealt with the evidence in cross-examination of a prosecution witness who was not declared hostile or cross-examined in that aspect as if the Court was dealing with an improbable and obnoxious statement of a defence witness failing to appreciate that it was a statement of a fact from the mouth of the injured prosecution witness who had suffered severe injuries in the accident. Bijay Gurung (P.W.2) has categorically stated two facts. He stated that it was the sudden movement amongst the passengers which caused the vehicle to roll back. He also stated that he could not say if the vehicle had back flowed due to the negligence of the Revisionist. Bijay Gurung (P.W.2) was a passenger who was inside the vehicle when the vehicle rolled back and because of which he suffered injuries. His statement must be accepted with the seriousness it deserves.

39. The Learned Sessions Judge has quoted the relevant cross-examination of Bijay Gurung (P.W.2) but highlighted and emphasised only the portion which reads *"the PO was an uphill*

road....” ignoring the rest. The Learned Sessions Judge has thereafter, held that the evidence of Bijay Gurung (P.W.2) has not been demolished during his cross-examination without reference or adverting to the statement of Bijay Gurung (P.W.2) that it was the movement amongst the passengers inside the vehicle which caused the vehicle to flow backwards towards the cliff.

40. On this vital aspect there is no concurrence of findings of the Learned Chief Judicial Magistrate and the Learned Sessions Judge. In fact there is no finding on this aspect by the Learned Sessions Judge and as stated above the Learned Chief Judicial Magistrate has simply brushed aside this evidence on a reasoning of probability only. The evidence in cross-examination deserves equal weightage to the evidence in examination-in-chief.

41. Both the Courts below have held that the prosecution has been able to prove that the Revisionist had failed or omitted to secure the vehicle safely while parking. Section 101 of the Evidence Act, 1872 provides whoever desires any Court to give judgment as to any legal right or liability depending on the existence of facts which he asserts, must prove those facts exist. However, on perusal of the prosecution evidence there is no cogent evidence to show that the Revisionist failed to secure the vehicle. Thus, this Court is of the view that for the purpose of satisfying itself as to the correctness, legality or propriety of

the findings and sentences passed by the Courts below this Court must necessarily examine the same.

42. It is well settled that if a prosecution witness deposes facts in favour of the accused and the prosecution fails to declare the said witness hostile and cross-examine him the prosecution cannot wriggle out of the statement. The said evidence is binding on the prosecution. The accused can rely upon such evidence. It must be taken that the prosecution has accepted that evidence to be true. (vide ***Jagan M. Seshadri v. State of T.N; Raja Ram v. State of Rajasthan[12]; Mukhtiar Ahmed Ansari v. State (NCT of Delhi[13]); Javed Masood & Anr. v. State of Rajasthan[14]; Assoo v. State of Madhya Pradesh[15] and Sanjay Subba v. State of Sikkim[16]***)

43. Bijay Gurung (P.W.2) was an injured witness. Bijay Gurung (P.W.2) has stated that the accident had occurred on 15.04.2013 after the Revisionist had stopped the vehicle on the way to answer to natures call. Bijay Gurung (P.W.2) has also stated that the vehicle which he along with his family members had boarded suddenly started moving and fell below the road as a result of which he sustained fracture on his left leg and had to undergo 17 stitches on his right leg and was hospitalised for two months for treatment. Bijay Gurung (P.W.2) has also candidly admitted that he was seated at the back seat of the said vehicle while the Revisionist and some passengers had stopped at the place of occurrence to attend to the call of

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[12] **(2005) 5 SCC 272**
[13] **(2005) 5 SCC 258**
[14] **(2010) 3 SCC 538**
[15] **(2011) 14 SCC 448**
[16] **2017 SCC OnLine Sikk 184**

nature. The evidence of Bijay Gurung (P.W.2) to the aforesaid effect is also supported by the evidence of other injured witnesses Santosh Kumar Pradhan (P.W.3) who sustained injuries on his hands and Nilu Pradhan (P.W.4) who sustained injuries on her leg.

44. Santosh Kumar Pradhan (P.W. 3) who was also one of the passengers of the vehicle stated that:

> **"***As soon as the accused got down of the vehicle, the vehicle started moving backwards and fell the road. When the accused got down from the vehicle the engine of the vehicle was still running. As soon as the accused got down of the vehicle, the vehicle started moving backward and fell the road. When the vehicle was falling down I jumped out of the vehicle, in the said accident we all sustained injuries. I sustained injuries on my hands. My father-in-law Bikram Rai was also travelling in the said vehicle. He succumbed to his injuries at the PO due to the accident. After getting down from the vehicle the accused did not put any stone in the tyres of the said vehicle to secure the from moving backward.***"**
>
> *[Emphasis supplied]*

45. In cross-examination, Santosh Kumar Pradhan (P.W.3) stated:

> **"***It is true that the PO is an uphill road. I do not know the mechanism of the vehicle. It is not true that the accused person pulled the handbreak of the vehicle. I do not know how the handbreak functions. I do no remember if the accused person had turned of the ignition of the said vehicle. It is true that I have not mentioned any of my today's deposition while giving my statement to the police u/s. 161 of the Cr.P.C., 1973. It is true that I was sitting at the last seat of the said vehicle, it is true that I could not see the rear tyre from my seat. .....***"**.
>
> *[Emphasis supplied]*

46. However, Santosh Kumar Pradhan (P.W.3) also stated in cross-examination that:

> **"***It is true that the accused person had driven the said vehicle in a safe manner from Rongli till PO. I cannot say if the accident occurred due to the negligence of accused person or due to the movement of nine passengers inside the said vehicle causing the same to flow backwards***."**
>
> *[Emphasis supplied]*

47. Nilu Pradhan (P.W.4) stated that:

> ***"****At around 9:30 am we reached Roarathang and the accused got down to attend nature's call. We were all together nine persons inside the said vehicle. When the accused got down from the vehicle, the vehicle started moving backward and fell off the road. When the vehicle was falling down I jumped out of the vehicle. In the said accident we all sustained injuries. I sustained injuries on my leg. I was taken to CRH Tadong for my treatment after my accident.*
>
> *My sister-in-law's father, Bikram Rai who was also travelling in the said vehicle succumbed to his injuries at the PO due to the said accident.*
>
> *After getting down from the vehicle the accused did not put any stone in the tyres of the said vehicle to secure the from moving backward.****"***
>
> *[Emphasis supplied]*

48. Nilu Pradhan (P.W.4) in cross-examination stated:

> ***"****It is true that the PO is usually used as toilet by the drivers and passengers. It is true that on the relevant day the accused person had parked the vehicle to attend the nature's call. It is true that the PO is an uphill road. I do not know the mechanism of the vehicle. It is true that I do not remember whether the accused person had pulled the handbrake of the vehicle. I do not know how the handbrake functions. I do not remember if the accused person had turned off the ignition of the said vehicle. It is true that I have not mentioned any of my todays deposition while giving my statement to the police u/s. 161 of the Cr.P.C., 1973. It is true that I was sitting at the second seat of the said vehicle. It is true that I did not exit the said vehicle while the accused person left the vehicle. It is true that I could not see the rear tyre from my seat. It is not true that as soon as the accused got off from the vehicle, the vehicle did not flow backwards and did not fall off the road. It is not true that my sister in law's father did not succumb to his injuries at the PO due to the said accident. It is true that the accused person had driven the said vehicle in a safe manner from Rhenock till PO. I cannot say if the accident occurred due to the negligence of accused person or due to the movement of nine passengers inside the said vehicle causing the same to flow backwards. It is not true that I did not sustain injuries due to the said accident. It is not a fact that I am deposing falsely.****"***
>
> *[Emphasis supplied]*

49. From the depositions and the evidence on record it is established that on 15.04.2013 the vehicle driven by the Revisionist with nine passengers was travelling from Rongli to Gangtok. The Revisionist had driven the said vehicle in a safe manner from Rhenock to the place of occurrence. At around 9:30 am when the vehicle reached Rorathang, the Revisionist

parked the vehicle and got down along with some of the passengers to attend to natures call. At that time the vehicle suddenly started moving and fell below the road. When the vehicle was falling down Santosh Kumar Pradhan (P.W.3) jumped out of the vehicle and as a result sustained injuries on his hands. Nilu Pradhan (P.W.4) also jumped out of the vehicle and sustained injuries on her leg. Bijay Gurung (P.W.2) however, fell with the vehicle and sustained fracture on his left leg and had to undergo 17 stitches on his right leg. Santosh Kumar Pradhan's (P.W.3) father-in-law one Bikram Rai who was in the vehicle succumbed to his injuries at the PO due to the accident.

50. The evidence of Dr. Tej Chettri (P.W.7) the Medico Legal Consultant at District Hospital, Singtam confirms the death of Bikram Rai due to the accident. The evidence of Dr. Yankee D. Bhutia (P.W.8) establishes grievous injury on Durga Rai. Her evidence also establishes simple injury on one Kinara Gurung. Dr. D. P. Sharma (P.W.9) establishes the examination of Buddha Rai, Santosh Kumar Pradhan (P.W.3) and Niku Pradhan and that they had sustained simple injuries. His evidence also establishes that one Sinara Pradhan had sustained grievous injuries. None of the injured prosecution witnesses have named Durga Rai, Kinara Gurung, Niku Pradhan and Sinara Pradhan as those people who were injured in the accident although they state that there were other passengers in the vehicle.

51. Although, Nilu Pradhan (P.W.4) stated in her examination-in-chief that the accused did not put any stone in the tyres of the said vehicle to secure it from moving backwards she admitted that she was sitting at the second seat of the said vehicle and could not see the rear tyre from her seat. The fact that Nilu Pradhan (P.W.4) admits in cross-examination that she was sitting on the second seat of the said vehicle and could not see the rear tyre coupled with the admission that she had not stated what she stated in her examination-in-chief in her statement to the police under section 161 Cr.P.C. creates doubt in the mind of this Court regarding her statement in examination-in-chief that after getting down from the vehicle the Revisionist did not put any stone in the tyre of the vehicle to secure it. There is no positive assertion as to the fact that the Revisionist had not pulled the handbrake of the vehicle by any prosecution witnesses although in cross-examination Santosh Kumar Pradhan (P.W.3) denied that the Revisionist had pulled the handbrake of the vehicle. Bijay Gurung (P.W.2) is however, uncertain if the Revisionist had pulled the handbrake of the vehicle or not or if he had put a stone to secure the back tyre of the vehicle. In view of the aforesaid there is no clear and cogent evidence brought forth by the prosecution to establish that the Revisionist had not secured the tyres of the vehicle by putting stones or otherwise or that he had not applied the handbrakes of the vehicle before he got out of the vehicle to answers to natures call. The Investigating Officer visited the place of

occurrence and exhibited the rough sketch map (exhibit 14) prepared. The rough sketch map does not, however, give any idea about the incline or the gradient of the road. The Investigating Officer's deposition is also silent about it. He did not also enlighten about the incline or the gradient of the road. However, Bijay Gurung (P.W.2), Santosh Kumar Pradhan (P.W.3) as well as Nilu Pradhan (P.W.4) in cross-examination admit that the place of occurrence was an uphill road. The defence is bound by their statement in cross-examination as held by the Supreme Court in re: ***Ashok Kumar v. State of Haryana***[17]. The Revisionist in his statement recorded under Section 313 Cr.P.C. states that he had put a stone in the tyre of the vehicle to secure it from moving in any direction. Therefore, although it is admitted that the place of occurrence was an uphill road it is uncertain whether the Revisionist had secured the vehicle or not. The fact that the vehicle started moving backwards coupled with the admission that the place of occurrence was an uphill road permits this Court to presume that the vehicle had not been secured by a stone or by applying the handbrakes which was in working condition. However, with the positive assertion of the injured witnesses named above that the Revisionist had driven the said vehicle from Rongli till the place of occurrence in a safe manner coupled with the assertion of the Revisionist in his Statement under Section 313 Cr.P.C.

[17] **(2010) 12 SCC 350**

that he had in fact secured the vehicle, must permit the Court to give him the benefit of doubt on this factual score.

52. However, Bijay Gurung's (P.W.2) admission that the sudden movement of the passengers inside the vehicle caused the same to flow backwards towards the cliff is a statement which stands un-assailed. Bijay Gurung (P.W.2) was a prosecution witness and therefore, the prosecution is bound by his admission to the aforesaid effect made in his cross-examination before the Trial Court. Bijay Gurung (P.W.2) was not declared hostile and cross examined on the said statement and injured witness in the natural course of events would not let go the real culprit. Furthermore, Bijay Gurung (P.W.2) also had his family members in the said vehicle. Bijay Gurung (P.W.2) was a witness who was in the vehicle when the accident occurred. His admission that it was because of the sudden movement of the passengers in the vehicle which caused the vehicle to flow backwards towards the cliff may be fatal to the prosecution case in the facts of the present case. It is well settled that the testimony of an injured witness stands on a higher pedestal than other witnesses and is considered reliable as it comes with a built-in guarantee of his presence at the scene of occurrence. (vide ***Jodhan v. State of Madhya Pradesh***[18] and ***Kaziman Gurung v. State of Sikkim***[19]. The said evidence stands un-impeached and makes it clear that the sudden movement of the passengers in the vehicle was the *causa*

[18] **(2015) 11 SCC 52**
[19] **SLR 2017 Sikk 134**

causans of the accident. The evidence produced clearly suggests that after the Revisionist had parked the vehicle few passengers as well as the Revisionist alighted from the vehicle. Therefore it cannot be said that the vehicle started rolling back as soon as it was parked. There was therefore a time gap between the parking, alighting of the Revisionist and some of the passengers and the vehicle rolling back.

53. Consequently, the alleged act of the Revisionist cannot be held to be the proximate cause of death of one of the passengers or the injuries sustained by the other passengers.

54. It cannot be said that the Revisionist has done any *"rash and negligent"* act with the machinery so as to endanger human life, or to be likely to cause hurt or injury to any person or that he *"knowingly and negligently"* omitted to take such order with the machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery that would make him culpable under Section 287 IPC. Parking a vehicle on an uphill road, the extent of its gradient or incline not being known would not drag the Revisionist within the mischief of Section 287 IPC unless it is also proved that the Revisionist failed to *"rashly and negligently"* secure the vehicle by taking proper care or made arrangement or omitted to secure the said vehicle *"knowingly and negligently"*. Mr. S. K. Chettri submits that there is no evidence that the Revisionist secured the vehicle. That is true.

However, there is also no cogent evidence that he did not too. When the entire prosecution against the Revisionist is dependent on this crucial fact it may be unfair to harness culpability upon him on the basis of presumption more so when it is the duty of the prosecution to prove every ingredient of the offence alleged. There is no evidence that the Revisionist did any act which would enable the Court to come to a conclusion that the proved acts tantamount to running the risk of doing such an act with recklessness or indifference as to the consequences. It must always be remembered that for an act of *"rashness"* and *"negligence"* to be culpable in criminal law the degree of such rashness and negligence must be more than what is required to be proved in civil cases.

55. It cannot also be said that the Revisionist caused hurt or grievous hurt to any person by doing any act so *"rashly and negligently"* as to endanger human life or the personal safety of others that would attract the mischief of Section 337 or 338 IPC keeping in mind the degree of rashness and negligence required to be proved in criminal prosecutions.

56. In the facts of the present case, limiting the examination to the evidence produced, it cannot also be said that the Revisionist had hazarded a dangerous and wanton act with *"knowledge"* that it is so and that it may cause death to satisfy all the ingredients of the offence punishable under Section 304-A IPC.

57. The Criminal Revision Petition No. 03 of 2017 is allowed. The judgment of the Learned Sessions Judge dated 06.06.2017 in Criminal Appeal No. 08 of 2016 as well as the conviction of the Revisionist under Section 287, 337, 338 and 304-A, IPC is set aside. The Revisionist is on bail. The bail bonds of the Revisionist stands cancelled. He is set at liberty forthwith.

(Bhaskar Raj Pradhan)
Judge
11.04.2018

Approved for reporting: yes.
Internet: yes.

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