

[s 279.13] Compounding.—

Though the Supreme Court held in *Manish Jalan v State of Karnataka*,⁶⁹ that offences punishable under [section 279](#) and [section 304A, IPC, 1860](#) are not compoundable, in *Puttuswamy v State of Karnataka*,⁷⁰ the Supreme Court while maintaining the conviction under [section 304A IPC, 1860](#) notwithstanding the agreement arrived at between the parties, increased the amount of fine from Rs 2,000 to Rs 20,000 to be paid to the parents of the deceased and reduced the sentence to the period already undergone, subject to payment of the fine.

[s 279.14] Sentence.—

One of the most effective ways of keeping drivers under mental vigil is to maintain a deterrent element in the sentencing sphere. Any latitude shown to them in that sphere would tempt them to make driving frivolous and a frolic.⁷¹ For lessening the high rate of motor accidents due to careless and callous driving of vehicles, the Courts are expected to consider all the relevant facts and circumstances bearing on the question of sentence and proceed to impose a sentence commensurate with the gravity of the offence if the prosecution is able to establish the guilt beyond reasonable doubt.⁷² Where the accused dashed the jeep against a tree, as a result of which one person, who was travelling in the jeep got injured and died, and another person, who was also in the same vehicle received injuries, the Supreme Court held that the High Court, without proper appreciation of the evidence and consideration of the gravity of the offence, showed undue sympathy by reducing the sentence.⁷³

[s 279.15] Whether a Court can convict a person under [sections 279 and 337, IPC](#) for commission of the same act of offence and accordingly pass sentence under both the Sections.—

In this case, as the offence having been outcome of the same act, the Court should punish the accused for one offence and at the same time, while passing the order of sentence, the Court should also consider that when the sentence prescribed under [section 279, IPC, 1860](#) is a more severe offence than the offence prescribed under [section 337, IPC, 1860](#) the accused could be punished under [section 279, IPC, 1860](#) only.⁷⁴ However, in another case, Madras High Court held that simply because accused are found guilty under [section 304-A IPC, 1860](#) and sentence is imposed, there is no embargo for Court to impose separate sentence under [section 279 IPC, 1860](#).⁷⁵

30. *Ravi Kapur v State of Rajasthan*, [AIR 2012 SC 2986](#) [[LNIND 2012 SC 474](#)] : (2012) 9 SCC 284 [[LNIND 2012 SC 474](#)] : 2012 Cr LJ 4403 .

31. *State of HP v Manohar Singh*, 2011 Cr LJ 3402 (HP).

32. *Kuldeep Singh v State*, [AIR 2008 SC 3062](#) [[LNIND 2008 SC 1436](#)] : (2008) 14 SCC 795 [[LNIND 2008 SC 1436](#)] relied on *Syed Akbar v State of Karnataka*, 1980 (1) SCC 30 [[LNIND 1979 SC 297](#)]

33. *Bhalchandra*, (1967) 71 Bom LR 634, SC approving *Idu Beg v State*, (1881) ILR 3 All 766 and *Nidamarti Nagabhushanam*, (1872) 7 Mad HCR 119.
34. *Ravi Kapur v State of Rajasthan*, AIR 2012 SC 2986 [LNIND 2012 SC 474] : (2012) 9 SCC 284 [LNIND 2012 SC 474] : 2012 Cr LJ 4403.
35. *Mehnga Singh v State*, 2012 Cr LJ 4930 (Del).
36. *Braham Das v State of HP*, (2009) 7 SCC 353 [LNIND 2009 SC 1130] : (2009) 3 SCC (Cr) 406 : (2009) 81 AIC 265.
37. (1871) 6 Mad HCR (Appx) xxxii. *State of Karnataka v Sadanand Parshuram*, 2000 Cr LJ 2426 (Kant).
38. *Ravi Kapur v State of Rajasthan*, AIR 2012 SC 2986 [LNIND 2012 SC 474] : (2012) 9 SCC 284 [LNIND 2012 SC 474] : 2012 Cr LJ 4403.
39. *Dr. PB Desai v State of Maharashtra*, 2013 (11) Scale 429 [LNIND 2013 SC 815] ; In *Saroja Dharmapal Patil v State of Maharashtra*, 2011 Cr LJ 1060 (Bom), Bombay High Court held that section 304-A or section 279 of the IPC do not require any mens rea. But in view of the Supreme Court Judgment, in Desai's case, it is not relevant.
40. *Ravi Kapur v State of Rajasthan*, AIR 2012 SC 2986 [LNIND 2012 SC 474] : (2012) 9 SCC 284 [LNIND 2012 SC 474] : 2012 Cr LJ 4403 ; *Syad Akbar v State of Kamataka*, 1980 SCC (Cr) 59 : (AIR 1979 SC 1848 [LNIND 1979 SC 297]).
41. *Mohd. Aynuddin alias Miyam v State of AP*, 2000 (7) SCC 72 [LNIND 2000 SC 1014] : AIR 2000 SC 2511 [LNIND 2000 SC 1014] : 2000 SCC (Cr) 1281 : 2000 Cr LJ 3508.
42. *Jacob Mathew v State of Punjab*, AIR 2005 SCW 3685 : AIR 2005 SC 3180 [LNIND 2005 SC 587] .
43. *Francis Xavier Rodriguez v State of Maharashtra*, 1997 Cr LJ 1374 (Bom); *Dwarka Das v State of Rajasthan*, 1997 Cr LJ 4601 (Raj).
44. *Thakur Singh v State of Punjab*, 2003 (9) SCC 208.
45. *Ranjit Singh v State of Punjab*, 2012 (4) Crimes 315.
46. No separate sentence would be necessary under this section if the act is punished under section 304A. *Nanne Khan v State of MP*, 1987 Cr LJ 1403 (MP).
47. *AW Larrymore v Pernendoo Deo Rai*, (1870) 14 WR (Cr) 32.
48. *Allen*, (1835) 7 C & p 153.
49. *Binoda Bihari Sharma v State of Orissa*, 2011 Cr LJ 1989 (Ori).
50. *Ajit Singh v State*, 1975 Cr LJ 77 (HP).
51. *Padmacharan Naik*, 1982 Cr LJ NOC 192 (Ori).
52. *Amar Lal v State of Rajasthan*, 1988 Cr LJ 1 (Raj).
53. *Kew*, (1872) 12 Cox 355; *Blenkinsop v Ogden*, (1898) 1 QB 783 ; *Fagu Moharana*, AIR 1961 Ori 71 [LNIND 1959 ORI 42] .
54. *Bhupinder Sharma v State of HP*, 2016 Cr LJ 3832 : IV (2016) ACC 461 (HP).
55. *State of HP v Jawahar Lal Jindal*, 2011 Cr LJ 3827 (HP). See also *Aleem Pasha v State of Karnataka*, 2013 Cr LJ 174 (Kant); *Ponnusamy v State*, 2010 Cr LJ 2656 (Mad); *State of HP v Baljit Singh*, 2012 Cr LJ 237 (HP).
56. *Penu*, 1980 Cr LJ NOC 132 (Ori).
57. *Bijuli Swain*, 1981 Cr LJ 583 (Ori).
58. *Padmacharan Naik*, *supra*.
59. *P Rajappan*, 1986 Cr LJ 511 (Ker).
60. *State of HP v Man Singh*, (1995) 1 Cr LJ 299 (HP). The court also found that the brakes of the vehicle were in poor state of maintenance and, therefore, the principle of *res ipsa loquitur*

applied. The court **followed** *Thomas v State of Kerala*, [ILR \(1971\) 1 Ker 318](#) ; *Duli Chand v Delhi Admn*, [1975 Cr LJ 1732](#) : [AIR 1975 SC 1960](#) [[LNIND 1975 SC 258](#)] and *Usman Gani Mohd. v State of Maharashtra*, [\(1979\) 3 SCC 362](#) : 1979 SCC Cr 675, which was a case where a girl was knocked down and the version of the driver was that he did not notice how the impact took place and how the girl came under his lorry, it was, therefore, held that he was inattentive and this would establish negligence on his part.

61. *Padmacharan, supra*; *Mahommed Saffique*, [1983 Cr LJ 535](#) (Ori).

62. *Praffulla Kumar Rout v State of Orissa*, [\(1995\) 2 Cr LJ 1277](#) (Ori).

63. *Prabhudas*, [1986 Cr LJ 390](#) (Guj). In *State of Karnataka v Krishna*, [\(1987\) 1 SCC 538](#) [[LNIND 1987 SC 701](#)] : [1987 Cr LJ 776](#) : [AIR 1987 SC 861](#) [[LNIND 1987 SC 701](#)] the Supreme Court enhanced the punishment from two months' simple imprisonment being unconscionably low to six months' R. I. for causing death by rash and negligent driving. *NP Ganesan Re*, [1989 Cr LJ 1160](#) (Mad). Bus hitting a pedestrian and dragging him for about 76 feet before stopping, the sentence of imprisonment was converted into fine in view of his 55 years of age having sole child (daughter) suffering from paralysis but no order about his disability for re-employment. *State of Karnataka v SB Marigowda*, [1999 Cr LJ 2171](#) (Kant), the accused, driving a matador suddenly turning to right in order to overtake a vehicle and hitting a person to death who was standing at that side, held guilty under the section *Malleshi v State of Karnataka*, [1999 Cr LJ 2617](#) (Kant), the accused car driver hit bullocks and two persons on road and then dashed against a house 40 feet away from the road. Conviction proper. *Ram Singh v State of Rajasthan*, [1999 Cr LJ 2622](#) (Raj) death of a lady caused by rash and negligent driving, no leniency was shown to the accused because the whole family of the victim was upset. *Bhagirath Singh v State of Rajasthan*, [1999 Cr LJ 4237](#) (Raj), a pedestrian suddenly attempted to cross the road and was hit by a vehicle. It could not be known whether the driver was able to spot him. Negligence on the part of the driver not proved. *State v Santanam*, [1998 Cr LJ 3045](#) (Kant), accused, a military personnel, under influence of alcohol, drove his military truck in a zig zag manner, made three accidents in one sequence. A moped driver, who was hit, died but it was not known whether death was due to fatal injury. Others were only injured. Held, liable under section 279, but not under [section 337](#) or [section 304A, IPC, 1860](#) nor under section 117 of MV Act. *Bharat Amratlal Kothari v Dosukhan Samadkhan Sindhi*, [\(2010\) 1 SCC 234](#) [[LNIND 2009 SC 1949](#)] : [2010 Cr LJ 379](#) , FIR under section 279 for an order to prevent filling of animals in trucks in a cruel manner and carrying them for slaughter contrary to statutory requirements.

64. *Thana Ram v State of Haryana*, [1996 Cr LJ 2020](#) (P&H), **relying** on *Nageshwar Sh Krishna Ghobe v State of Maharashtra*, [AIR 1973 SC 165](#) [[LNIND 1972 SC 450](#)] : [1973 Cr LJ 235](#) .

65. *Shivanna v State*, [\(2010\) 15 SCC 9](#) : 2010 (9) Scale 87 [[LNIND 2010 SC 775](#)] .

66. *Pawan Kumar Sharma v State of UP*, [1996 Cr LJ 369](#) (All).

67. *K K Mani v State*, [2010 Cr LJ 4595](#) (Mad).

68. *Ramesan v State*, [2010 Cr LJ 4423](#) .

69. *Manish Jalan v State of Karnataka*, [AIR 2008 SC 3074](#) [[LNIND 2008 SC 1396](#)] : (2008) 8 SCC 225 [[LNIND 2008 SC 1396](#)] .

70. *Puttuswamy v State of Karnataka*, [\(2009\) 1 SCC 711](#) [[LNIND 2008 SC 2398](#)] : 2008 (15) Scale 483 [[LNIND 2008 SC 2398](#)] .

71. *Dalbir Singh v State of Harayana*, [2000 \(5\) SCC 82](#) [[LNIND 2000 SC 810](#)] : [AIR 2000 SC 1677](#) [[LNIND 2000 SC 810](#)] : [2000 Cr LJ 2283](#) ; *B Nagabhushanam v State of Karnataka*, [2008 \(5\) SCC 730](#) [[LNIND 2008 SC 1172](#)] : 2008 (7) Scale 716 [[LNIND 2008 SC 1172](#)] : [AIR 2008 SC 2557](#) [[LNIND 2008 SC 1172](#)] .

72. *State of Punjab v Balwinder Singh*, [2012 \(2\) SCC 182](#) [[LNIND 2012 SC 8](#)] : 2012 (1) Scale 62 [[LNIND 2012 SC 8](#)] : [AIR 2012 SC 861](#) [[LNIND 2012 SC 8](#)] .

73. *State of MP v Surendra Singh*, 2015 Cr LJ 600 : AIR 2015 SC 398 [LNIND 2014 SC 933] .

74. *Hiran Mia v State of Tripura*, 2010 Cr LJ 189 (Gau) section 279 is punishable with imprisonment of either description of a term which may extend to six months, or with fine which may extend to **Rs 1,000**, or with both, while section 337 is punishable with imprisonment of either description for a term which may extend to six months, or with fine which may extend to **Rs 500**, or with both.

75. *Rajaram v State*, 2010 Cr LJ 1644 (Mad).

THE INDIAN PENAL CODE

CHAPTER XIV OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY CONVENIENCE, DECENCY AND MORALS

The following specific instances of nuisance are dealt with in this Chapter:—

1. Act likely to spread infection (sections 269–271).
2. Adulteration of food or drink (sections 272–273).
3. Adulteration of drugs (sections 274–276).
4. Fouling water of a public spring or reservoir (section 277).
5. Making atmosphere noxious to health (section 278).
6. Rash driving or riding (section 279).
7. Rash navigation (sections 280-282).
8. Exhibition of false light, mark or buoy (section 281).
9. Danger or obstruction in a public way or line of navigation (section 283).
10. Negligence in respect of poison (section 284), fire (section 285) or explosive substances (section 286).
11. Negligence in respect of machinery (section 287), building (section 288) or animals (section 289).
12. Selling obscene literature and pictures (sections 292, 293) or doing obscene acts (section 294).
13. Keeping a lottery office (section 294A).

[s 280] Rash navigation of vessel.

Whoever navigates any vessel 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, 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.

COMMENT.—

The last section deals with public ways on land: this section deals with waterways. It deals with the case of inland navigation. Rash or negligent navigation on the high seas is not punished under the Code but under certain special statutes.

[s 280.1] CASES.—

Petitioners, 33 in number were the distressed and marooned seamen belonging to different nationalities who were the crew of "ISABELL-III", wrecked at the reefs of the sea near the Islet of Suheli Par, part of the Lakshadweep group of Islands. The accident happened when the vessel was passing through the Indian territorial waters by way of

innocent passage; and immediately the matter was informed to the Indian Coast Guard. The Merchant Shipping (Distressed Seamen) Rules, 1960 prescribes that the derelict seamen should be saved at any cost and repatriated to their return port at the cost of the owner of the vessel. The petitioners were forced to enter the Lakshadweep Island and hence they were held protected under the [Merchant Shipping Act, 1958](#) the Merchant Shipping (Distressed Seamen) Rules, 1960 and the U.N. Conventions On the Law Of the Sea (UNCLOS). It was held that at best the offence under [section 280 IPC, 1860](#), i.e., rash navigation of the vessel, would lie only against the first accused, who was the Master of the vessel. Proceedings against the crew was quashed.⁷⁶

⁷⁶. *Hisa A Sheng v Administrator, Union Territory of Lakshadweep*, [2007 Cr LJ 821](#) .

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5. Making atmosphere noxious to health (section 278).
6. Rash driving or riding (section 279).
7. Rash navigation (sections 280-282).
8. Exhibition of false light, mark or buoy (section 281).
9. Danger or obstruction in a public way or line of navigation (section 283).
10. Negligence in respect of poison (section 284), fire (section 285) or explosive substances (section 286).
11. Negligence in respect of machinery (section 287), building (section 288) or animals (section 289).
12. Selling obscene literature and pictures (sections 292, 293) or doing obscene acts (section 294).
13. Keeping a lottery office (section 294A).

[s 281] Exhibition of false light, mark or buoy.

Whoever exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

COMMENT.—

Intentional exhibition of a false light, mark or buoy, with a view to mislead any navigator is punishable under this section.

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11. Negligence in respect of machinery (section 287), building (section 288) or animals (section 289).
12. Selling obscene literature and pictures (sections 292, 293) or doing obscene acts (section 294).
13. Keeping a lottery office (section 294A).

[s 282] Conveying person by water for hire in unsafe or overloaded vessel.

Whoever knowingly or negligently conveys, or causes to be conveyed for hire, any person by water in any vessel, when that vessel is in such a state or so loaded as to endanger the life of that person, 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.

COMMENT.—

This section provides against the negligence of common carriers by water. Where a person, with the assistance of two others, plied a ferryboat, which was out of order and had a crack, and he took in one hundred passengers, and consequently the boat was upset, and seven persons were drowned, it was held that the accused had committed an offence under this section.⁷⁷ Where the lessee of a public ferry knew that boats were usually overloaded but took no steps against it and allowed his boatmen to overload them as they liked and in consequence, a boat sank with some passengers, it was held that the lessee was guilty of criminal negligence and liable under this

section.⁷⁸ Where a launch, which was overloaded with passengers, capsized at the jetty owing to the onrush of persons waiting at the jetty to get on deck and the passengers on the launch wanting to get down at the jetty, resulting in displacement of balance of the launch, it was held that the capsizing of the launch was not because of any negligence of the owners or the master and, therefore, their conviction under this section could not be sustained.⁷⁹ The owner who knowingly or negligently allows overloading of his boat so as to endanger the life of the persons therein will be liable under [section 282, Penal Code](#).⁸⁰

There is no provision in the Code for the negligence of a common carrier by land.

⁷⁷. *Khoda Jagta*, (1864) 1 BHC (Cr C) 137.

⁷⁸. *Tofel Ahmad Miya*, (1933) 61 Cal 253 .

⁷⁹. *VR Bhate*, AIR 1970 SC 1362 : 1970 Cr LJ 1261 .

⁸⁰. *Re K S M Mohammad Abdul Kadar Marakayar*, 1950 Cr LJ 729 (Mad).

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11. Negligence in respect of machinery (section 287), building (section 288) or animals (section 289).
12. Selling obscene literature and pictures (sections 292, 293) or doing obscene acts (section 294).
13. Keeping a lottery office (section 294A).

[s 283] Danger or obstruction in public way or line of navigation.

Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way ¹ or public line of navigation, shall be punished with fine which may extend to two hundred rupees.

COMMENT.—

The offence punishable under this section is the nuisance of causing obstruction, in a public way or navigable river or canal:

[s 283.1] Ingredients.—

The section requires two things—

1. A person must do an act or omit to take order with any property in his possession or under his charge.