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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

916 CRIMINAL REVISION APPLICATION NO. 82 OF 2018

**RAMESH S/O. VITHOBA CHINCHOLE
VERSUS
THE STATE OF MAHARASHTRA**

.....

Mr V. M. Maney, Advocate for Applicant

Mr C. V. Bhadane, APP for Respondent/State

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 19th AUGUST, 2026

P. C. :

1. Heard learned Advocate for the applicant and learned APP for respondent/State. With their consent this criminal revision application is taken up for final disposal.

2. Mr Maney, learned Advocate for the applicant states that the applicant/accused is being prosecuted for offence under Sections 279 and 337 of the Indian Penal Code. The said offences came to be registered in pursuance of the report lodged by PW-1/Ravi Vishwanath Ambhure alleging therein that, on 30/06/2013, at about 11.00 a.m., he alongwith his younger brother Vishal, mother Savita and Aunt Subhadrabai were on their way towards their agricultural field. They were walking on the left side of the road and when they came near to Sai Bar, one white Swift car bearing No. MH-30-P-3311 came in high

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speed from Bori and gave dash to Ravi from his backside. He fell down on the road and sustained injuries on his back of right side, on right shoulder, elbow and left wrist. The said car also dashed to his mother and she also sustained injuries to her left foot. After giving dash, the car did not stop at the spot of occurrence. Injured Ravi was brought to Civil Hospital at Bori and Police recorded the statement of injured Ravi at Hospital. On the said report, Crime No.85/2013 came to be registered with Police Station, Bori. After completion of investigation, charge-sheet came to be filed against the present applicant.

3. Learned Judicial Magistrate First Class, Jintur, after recording evidence of four witnesses, namely, PW-1/ Ravi Vishwanath Ambhure, who is injured complainant; PW-2/Vishal, brother of complainant Ravi; PW-3- Satish Vaijnath Kulkarni, who is the car owner of offending vehicle and PW-4/Investigating Officer, passed the impugned order dated 26/06/2015 in SCC No.72/2014, thereby convicting applicant for the offence punishable under Section 279 of Indian Penal Code and sentenced him to suffer three months rigorous imprisonment. The applicant/accused was further convicted for the offence punishable under Section 337 of Indian Penal Code and sentenced him to suffer three months rigorous imprisonment.

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4. Being aggrieved by the aforesaid judgment and order, applicant had preferred appeal before the learned Additional Sessions Judge-1, Parbhani vide Criminal Appeal No.68/2015. Learned Additional Sessions Judge, after hearing the Advocates for the respective parties, dismissed the said appeal and confirmed the judgment and order of conviction vide order dated 22/02/2018. Hence, applicant has approached this Court by filing the present revision application under Section 397 of the Code of Criminal Procedure.

5. Mr Maney, learned Advocate for the applicant submits that both the Subordinate Courts have committed a grave error in law by passing the impugned orders. According to him, there was no evidence before the Subordinate Courts to show that the present applicant was driving the said offending vehicle at the time of alleged incident. According to him, the prosecution has failed to prove before the Subordinate Courts that, at the time of incident, the present applicant was driving the offending vehicle. He then submits that the applicant came to be prosecuted merely on the basis of statement of PW-3 Satish Kulkarni, who is the owner of offending car, that the said car was being driven by the present applicant. However, fact remains that the present applicant was not identified by any of the witnesses

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and there is no evidence to show that at the relevant time, the applicant was driving the offending vehicle. PW-3/Satish Kulkarni who is the car owner has turned hostile.

6. After hearing the learned Advocates for the respective parties, and perusing the evidence on record, it is brought to the notice of this Court that present applicant was convicted for the offence punishable under Section 279 and 337 of the Indian Penal Code on the sole assumption that, he might have been driving the offending vehicle at the time of incident. The prosecution has not brought any evidence to suggest that, at the relevant point of time, applicant was in fact driving the said offending vehicle. No witness has identified the applicant nor Investigating Officer conducted the test identification parade.

7. In that view of the matter, conviction of the applicant under Section 279 and 337 of the Indian Penal Code is not sustainable. Learned Subordinate Courts have committed a grave error, thereby convicting the applicant, without establishing the fact that at the relevant time, he was driving the offending vehicle. Thus, in my opinion, the impugned judgment and orders are liable to be set aside. Hence, I pass the following order :-

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ORDER

- (I) This criminal revision application is allowed.
- (II) The judgment and order dated 22/02/2018, passed by the learned Ad-hoc Additional Sessions Judge-1, Parbhani in Criminal Appeal No.68/2015, thereby confirming the judgment and order dated 26/06/2015, passed by the learned Judicial Magistrate First Class, Jintur in SCC No.72/2014, is hereby quashed and set aside. The applicant is acquitted of all the charges levelled against him.
- (III) The bail bonds of applicant, if any, shall stand cancelled.
- (IV) Record be sent to the Trial Court.

[SUSHIL M. GHODESWAR, J.]

sjk