



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

913 CRIMINAL REVISION APPLICATION NO. 293 OF 2019

Shrimant S/o. Bapusaheb Bobde

VERSUS

The State Of Maharashtra

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Mr. Abhijit Bhagat h/f. Mr. N. K. Kakade, Advocate for Applicant.
Mr. M. A. Aher, APP for Respondent – State.

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 29th SEPTEMBER, 2026

PC:

1. The applicant has preferred the instant Criminal Revision Application under Section 397 of the Code of Criminal Procedure, challenging the judgment and order dated 16th October 2019 passed in Criminal Appeal No.118 of 2014, whereby the learned Sessions Judge was pleased to dismiss the said appeal, thereby confirming the judgment dated 26th June 2014 passed by the learned Judicial Magistrate First Class, 13th Court, Aurangabad. Vide the said judgment dated 26th June 2014, the learned Judicial Magistrate First Class, Aurangabad, was pleased to convict the applicant under Section 279 of the Indian Penal Code and sentenced him to suffer rigorous imprisonment for three months and to pay a fine of R.1,000/-, in default, to suffer simple imprisonment for 15 days. The learned Trial Court was further pleased to convict the applicant

under Section 338 of the Indian Penal Code and directed him to suffer rigorous imprisonment for six months and to pay a fine of Rs.1,000/-, in default, to suffer simple imprisonment for one month.

2. Mr. Abhijit Bhagat, learned counsel, holding for Mr. N. K. Kakade, learned counsel for the applicant, states that the orders passed by the learned Appellate Court as well as learned Trial Court are patently illegal and are not sustainable in the eyes of law. He submits that the prosecution has failed to establish the guilt of the present applicant so as to convict him under Sections 279 and 338 of the Indian Penal Code. He further submits that the evidence of PW-2 cannot be relied upon, as the said witness was far away from the spot and had not actually witnessed the said incident. He therefore submits that the evidence of PW-2 is not corroborative in nature and as such the learned Trial Court as well as the learned Appellate Court committed error in relying upon the testimony of the said witness.

3. Mr. Bhagat further argues that the prosecution has examined only four witnesses, namely, PW-1 – Informant himself, PW-2 Gulab, PW-3 – Medical Officer and PW-4 – Investigating Officer. The testimony of the aforesaid witnesses if perused, it would reveal that the applicant cannot be convicted on the basis of the said evidence. He therefore states that, as the learned Courts below have committed illegality in passing the impugned

judgments and orders, the same be quashed and set aside.

4. *Per contra*, Mr. Aher, learned APP, strongly opposed the instant Revision Application. According to him, the learned Trial Court as well as the Appellate Court, while passing the impugned judgments and orders, have committed no mistake as such there is no illegality or irregularity in the said judgments. He further submits that the scope of interference by this Court under Section 397 of Cr.P.C. is very narrow and is to be exercised to prevent miscarriage of justice. After perusing the entire evidences and the orders passed by the learned Trial Court as well as the Appellate Court, it would reveal that there is no irregularity or error in law. He therefore submits that there being concurrent findings as regards the guilt of the applicant, both the orders are required to be maintained.

5. He has also invited the attention of the Court to the testimony of PW-1 and PW-2 to point out the rash and negligent conduct of the applicant at the time of driving the vehicle. He therefore submits that the said testimony is sufficient to sustain the conviction of the applicant and prays for dismissal of the instant Criminal Revision Application.

6. Mr. Aher, learned APP, further submits that the applicant has admitted the spot panchanama at Exhibit 28. The bare perusal of the said panchanama would show that the applicant was driving the tipper (Truck) at a very high speed on the wrong side of the road. The conduct of the

applicant was so disappointing that PW-2, upon seeing the applicant-accused driving the vehicle, tried to chase the said vehicle along with one of his friends. The said friend also tried to contact the toll naka to stop the said vehicle.

7. The learned Sessions Court also recorded a finding that the vehicle was being driven on the wrong side of the road in an attempt to overtake another vehicle and that though the informant was driving on the extreme left side of the road, the applicant-accused gave a dash to the motorcycle of the informant. He therefore strongly opposed the instant Criminal Revision Application and prayed for dismissal of the Criminal Revision Application by maintaining the order passed by the subordinate Courts. The learned Appellate Court has maintained the conviction, however, it modified the sentence imposed under Section 338 of the Indian Penal Code from six months to three months.

8. After hearing the learned counsel for the parties and going through the record placed before this Court, it appears that the applicant has been convicted under Section 279 and 338 of the Indian Penal Code by the learned Trial Court. The said judgment has been confirmed by the learned Sessions Court in the appellate proceeding.

9. Before proceeding further, the evidence of PW-1 and PW-2 discloses that the applicant was driving the vehicle from Aurangabad to Paithan.

The evidence of both the witnesses discloses that the said vehicle was being driven at a high speed. Though the learned counsel for the applicant submits that driving of vehicle at a high speed does not necessarily establish that the vehicle was being driven in a rash and negligent manner, however, the said fact can be ascertained from the evidence of these two witnesses, which show that not only the applicant–accused was driving the vehicle at a high speed, but he was also driving it in a rash and negligent manner also. It has been brought on record by the aforesaid witnesses that the vehicle was being driven on the wrong side of the road and though the informant was on the extreme left side of the road, still the applicant gave a dash to the motorcycle of the informant, causing serious injuries.

10. The aforesaid aspects are further fortified by the evidence of PW-2 as regards the conduct of the applicant at the time of the driving the vehicle. The said witnesses i.e. PW-2, in his deposition, states that the applicant was driving the vehicle at such a high speed and on the wrong side of the road that he tried to chase the said vehicle along with one of his friends. His friend also contacted with the toll naka personnel in order to stop the said vehicle.

11. Thus the aforesaid conduct itself goes to show that the applicant was not only driving the aforesaid vehicle on the wrong side of the road but was also driving it in a rash and negligent manner. Had the applicant

taken proper caution at the time of driving the vehicle, the accident in question could have been avoided.

12. In that view of the matter, as already observed, this Court has a very narrow scope for entertaining the Criminal Revision Application under Section 397 of the Cr.P.C. No strong and valid ground has been pointed out to this Court so as to disturb the findings recorded by the learned Trial Court as well as the Appellate Court. As there is no illegality in the said orders, I therefore pass the following order:

ORDER

- (i) The instant Criminal Revision Application is dismissed.
- (ii) The conviction of the applicant is maintained. However, instead of sentencing him, the applicant is directed to pay a fine of Rs.10,000/- to the informant under Section 357(1) of the Code of Criminal Procedure. The said fine amount be deposited with the Registry of this Court within a period of two weeks from the date of this order.

13. Before concluding, I appreciate the efforts of the learned APP, Mr. Aher of thoroughly preparing the matter and assisting the Court and therefore place the appreciation on record.

(SUSHIL M. GHODESWAR, J.)