

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

916. CRI.APPLN/1674/2014

THE STATE OF MAHARASHTRA
V/S
DEVIDAS YADAVRAO SURNAR

Mr. S.A. Ambad, APP for State.

Mr. H.V. Patil, Advocate for respondent.

CORAM : T.V. NALAWADE, J.
DATED : 24th July, 2015.

ORDER :

1. The application is filed for leave to file appeal against the judgment and order of S.C.C. No. 47/2010 which was pending in the Court of J.M.F.C., Palam, Dist. Parbhani. Respondent is acquitted of the offences punishable under sections 279, 304-A etc. of I.P.C. Heard the learned APP. Seen the record.

2. The State was mainly relying on the so called statement of the deceased Dhondiram. This Court has gone through the record. The statement shows that when the accident took place on 22.1.2010, the statement of Dhondiram was recorded on 17.3.2010. He was admitted in hospital after the accident. The statement is proved as Exh. 33 and in the statement, he disclosed that after accident he learnt that vehicle

involved was auto bearing No. MH-22/H-4574 and his driver was Devidas Surnar, accused. From it, it can be said that he has only seen that one auto has given dash, and he had not noted the number of the auto. There was no question of knowing the name of Devidas Surnar by the Dhondiram as accused was not known to him. The record does not show that even after recording the statement of Dhondiram, police had taken over the auto and prepared the panchanama in respect of seizure of auto. Such panchanama could have helped the State to show that the auto was involved in the accident. As there is no such evidence, this Court holds that the Trial Court has not committed any error in giving decision of acquittal. Nothing can be achieved by giving permission to State to file appeal.

3. In the result, the application is rejected. Leave is refused.

[T.V. NALAWADE, J.]

ssc/