

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

CRIMINAL REVISION APPLICATION NO. 118 OF 2003

Satish s/o Genu Waghade,
age 25 years, occ. Agriculture,
R/o Pimpalgaon Malvi,
Taluka Nagar, District Ahmednagar ...Applicant

VERSUS

The State of Maharashtra ...Respondent

Shri D.R.Markad, advocate h/f
Shri A.N.Kakade, advocate for applicant
Shri V.H.Dighe, A.P.P. for respondent

CORAM : V.M.DESHPANDE, J.

DATED : 10th March, 2015

ORAL JUDGMENT :-

1] By the present Revision, the applicant is challenging the order of his conviction and sentence under Section 124 of the Bombay Police Act passed by the Judicial Magistrate, First Class, Court No.3, Ahmednagar in Summary Trial Case No. 3325 of 1997, as confirmed by the IInd Ad hoc Additional Sessions Judge, Ahmednagar by judgment and order, dated 27.3.2003 in Criminal Appeal No. 9 of 2003.

2] I have heard Shri D.R.Markad, advocate holding for Shri A.N.Kakade, learned counsel for the applicant and Shri V.H.Dighe, learned Additional Public Prosecutor for respondent in extenso.

3] The applicant was found to be plying a motor cycle bearing No. MTU-1656 on 9.3.1996. He gave dash to one cyclist. In the accident, both of them were injured and were admitted in the hospital. Crime No. 37 of 1996 was registered under Section 337 of the Indian Penal Code against the present applicant.

4] During the course of the investigation of the afore said crime, when the investigating officer inquired about the ownership of the document of the motor cycle MTU-1656, present applicant was unable to furnish any details or give satisfactory explanation as to how the said motor cycle came in his possession. He was unable to produce the document showing ownership over the said moveable property.

5] That gave cause to the investigating officer to make inquiry with the Regional Transport Officer, Ahmednagar. Upon such inquiry, it was noticed by him that no such vehicle is registered with the said Regional Transport Authority. Therefore, police Head Constable Pralhad Jadhawar (PW 1)

lodged report with police station M.I.D.C., Ahmednagar (Exh.14).

The offence under Section 124 of the Bombay Police Act being a non-cognizable offence, permission was sought from the Judicial Magistrate, First Class, Ahmednagar by moving application (Exh.15). The learned Magistrate granted permission to investigate into the matter. During the investigation, it was found by him that the applicant is not the owner of said motor cycle, and therefore, charge sheet was filed in the court of law.

6] Both the courts below, in my view, have correctly recorded the finding that the applicant failed to give any explanation as to in what capacity he was possessing the motor cycle in question. It is to be noted that, in fact, in the statement recorded under Section 313 of the Code of Criminal Procedure during trial, the applicant has stated that he is the owner of the motor cycle, however, his previous owner has not handed over the documents to him.

7] The learned counsel for the applicant was unable to point out any perversity in the impugned judgment warranting interference in the Revisional jurisdiction. The learned Appellate Court has evaluated the material and the learned lower appellate court, being last court so far as finding of fact is

concerned, in the present case which are based on available material on record, I see no reason to interfere with the order impugned by exercising the revisional jurisdiction.

8] Hence, the Revision Application fails and it is dismissed. The applicant shall surrender to his bail bonds. The learned Magistrate is directed to take necessary steps to secure the presence of the applicant to serve out the remaining jail sentence. Rule discharged.

[V.M.DESHPANDE, J.]

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