

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CRIMINAL APPLICATION NO. 5152 OF 2013

THE STATE OF MAHARASHTRA
VERSUS
MAHADEO NARAYAN SHINDE

...

APP for Applicant : Mr.K.S.Patil.

Advocate for Respondent : Mr. Satyajit Bora.

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CORAM : **INDIRA K. JAIN, J.**

DATE : 27th April, 2015.

Per Court:

. This application under Section 378 (1) (3) of the Code of Criminal Procedure is for grant of leave to appeal against the judgment and order of acquittal by the learned Judicial Magistrate First Class, Jamkhed, in R.C.C.No.90 of 2008, for the offences punishable under Sections 304(A), 279, 338, 337 and 427 of the Indian Penal Code and Sections 184, 134 (A) (B), 177 and 128 of the Motor Vehicles Act.

2 Heard extensively learned Additional Public Prosecutor and learned counsel for sole Respondent. Perused original record.

3 Accident occurred on 8th April, 2008 at about 09:30 pm. Javed son of Complainant was proceeding on motorcycle bearing

No.MH-16/J-8845. On the way, Pulser Bajaj Motorcycle bearing No.MH-12/CX-4314, came in high speed from opposite direction and gave a dash to the motorcycle of Javed. He sustained head injury and died. On the report of father of deceased, crime was registered. On completion of investigation, charge-sheet came to be filed before the concerned Court.

4 Prosecution examined in all five witnesses. PW1 Maqbul, PW3 Dhananjay and PW4 Asif were the eyes witnesses to the accident. PW4 Asif identified accused in the dock. Spot Panchanama Exhibit 34 was proved by PW2 Aslam. It appears from postmortem report Exhibit 41 that Javed died due to shock due to intracranial hemorrhage due to head injury in road traffic accident.

5 The trial Court discussed the evidence of prosecution witnesses. Considering the facts elicited in cross-examination, it was observed that none of the witnesses had seen the accident and their evidence does not inspire confidence.

6 On going through the testimonies of Complainant and eye witnesses, this Court finds that there is arguable case for the State.

7 So, the application is allowed. Leave granted. Appeal is
admitted.

[INDIRA K. JAIN, J.]

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