

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRI. REVISION APPLICATION NO. 82 OF 2015

Mr. Sudam Dala Bedse

... Applicant.

V/s.

The State of Maharashtra

... Respondent.

Mr. Omkar Nagvekar i/by Sudam Kale, Advocate for the Applicant.

Mr. Ajay Patil, APP for the State.

CORAM : M.L.TAHALIYANI,J.

DATE : 30th MARCH, 2015

P.C. :

1 Admit. Heard finally.

2 The Applicant was prosecuted for the offences punishable under section 134 read with section 177 and 184 of the Motor Vehicles Act. He was also prosecuted for the offence punishable under section 279 of the IPC and was sentenced to suffer simple imprisonment for six months. The appellate court modified the order and acquitted the applicant for the offence punishable under section 184 of the Motor Vehicles Act. Rest of the order of the learned Magistrate was maintained by the appellate court.

3 Learned counsel for the Applicant and the additional public prosecutor are heard by me. It is submitted by the learned Advocate for the applicant that the applicant was neither rash nor negligent inasmuch as there is nothing to show as to in what manner the applicant had been rash and negligent. I have gone through the judgment passed by both the courts below. It is possible to say that the applicant might not be rash in his driving. However, transporting about 30 passengers in the goods vehicle by itself amounts to negligence on the part of the applicant. Therefore, in my view the conviction of the applicant for the offence punishable under section 279 was rightly arrived at by the trial court and it has been rightly confirmed by the Sessions Court. The conviction of the applicant under section 134 read with section 177 of the Motor Vehicles Act is also without any fault.

4 However, as far as the sentence part of the judgment is concerned, in my opinion, six months imprisonment in such a case will not serve any purpose. Because the court cannot ignore the fact that this is a common practice in the villages to transport passengers in goods vehicles when the passenger vehicles are not available. In such circumstances, a lenient view should have been taken by the learned trial Court and the Sessions Court. However, at the same time, the applicant should bear in mind that it is not

permissible in law to transport passengers in a goods vehicle. Therefore, he should have avoided it.

5 For all these reasons, I pass the following order.

- i. The conviction of the applicant under section 279 of the Indian Penal Code and section 134 r/w. section 177 of the Motor Vehicles Act is maintained.
- ii. The sentence imposed on the applicant by the trial court and confirmed by the Sessions Court is set aside.
- iii. The applicant is directed to execute a personal bond of Rs. 50,000/- with one solvent surety of Rs. 10,000/- for a period of three years with the condition that during the said period of three years, he will maintain peace and good behaviour and that he will never transport passengers in any goods vehicle.
- iv. That the applicant will appear before this court or any other court to serve the sentence, if called upon to do so.

- v. The bond shall be executed before the trial court.
- vi. The Respondent / Police shall note that if any breach of condition of the bond is committed, the same shall be reported to the learned Magistrate immediately, so that the Magistrate takes further action against the applicant for breach of bond.

6 Criminal revision application stands disposed of in the above terms.

(JUDGE)

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