

Anand

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

CRIMINAL APPLICATION NO.52 OF 2015

The State of Maharashtra .Applicant

V/s.

Mohan Nana Sargar .Respondent

Mr.A.R.Patil, Advocate, for the Applicant –
State

None for the Respondent

CORAM : A.R.JOSHI, J.

DATE : 11.06.2015

P.C.

. Heard learned APP for the State on this application for leave to file an Appeal challenging the Judgment and Order of acquittal passed by the learned Judicial Magistrate F. C., Islampur, District – Sangli dated 08.01.2015.

2. By the impugned Judgment and Order, the respondent/accused was acquitted of the offences punishable under Sections 279 & 304A of the

Indian Penal Code and under Sections 134A, 134B, 177, 184 and 185 of the Motor Vehicle Act.

3. The case of the prosecution is that on 02.07.2010 at night the present respondent drove his vehicle Mahindra Bolero Jeep in a rash and negligent manner and gave dash to the couple traveling on a motor cycle. The couple died in the incident on the spot. Intimation was given to the police regarding the said incident. Also according to the case of the prosecution, the present respondent thereafter gave dash to two motor cycle riders causing injury to them. What weighed with the trial Court was variance in the substantive evidence of two motor cycle riders to whom allegedly the dash was given by the motor jeep driven by the respondent. But the trial Court came to the conclusion that it was not established whether the same motor jeep was involved in the accident in which the couple

traveling on the motor cycle lost their lives. Admittedly, the first informant was not an eye witness. The eye witness was PW-3 and according to him, one motor vehicle gave dash to the couple traveling on the motor cycle and due to this accident, the couple died. The said eye witness PW-3 did not identify the respondent/accused during the trial and even he has not noticed the registration number of the vehicle. As such, the trial Court did not rely on the evidence of the said PW-3. As mentioned earlier, the substantive evidence of two other riders of the motor vehicle, to whom also dash was given by the motor jeep, was not believed by the trial Court considering inconsistency in the evidence insofar as spot offence is concerned. Even in paras 27 and 28, the trial Court has discussed that it could not be ascertained whether there was a failure of brakes or otherwise as the motor jeep was in completely

damaged condition and that nothing was brought before the trial Court that allegedly the respondent/accused was in intoxicated condition while driving the vehicle. Even the trial Court came to the conclusion that there was no cognate evidence to show that on the night of the incident the respondent was actually driving the vehicle. Considering the evidence to prove the charges leveled by the trial Court against the respondent/accused in the opinion of this Court, the reasoning given by the trial Court cannot be termed as perverse and not based on the material available on record. In other words, it must be said that there is nothing to come to the different view than that was taken by the trial Court in disbelieving the evidence brought before it.

4. In the result, there is nothing to re-appreciate the matter and re-appraise the

material to come to the different conclusion.
Consequently, the present application for leave
to file the Appeal is rejected and disposed of
accordingly.

(A.R.JOSHI, J.)