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*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION No.186 of 2013*

The State of Maharashtra ..Applicant.

Vs

Balu Krushna Danke ..Respondent.

Mrs P.P. Bhosale, APP for the State.

CORAM : A.R.JOSHI,J
DATE : 25th JUNE, 2015

PC. :

1 Heard the learned APP for the State.

2 Perused the application.

3 This is an application for leave to file appeal challenging judgment and order of acquittal of the respondent. The respondent was acquitted of the offence under Sections 279, 337 and 338 of IPC and under section 184 and 187 of Motor Vehicles Act.

4 The case of the prosecution is that on the relevant date when one police officer was riding on his motor-cycle on Ratnagiri Kolhapur road, the tempo being driven by the respondent-accused came from opposite side and gave dash causing him severe injuries which resulted in fracture and which resulted in hospitalization for about ten days. It is not the case of the prosecution that said PW 1 complainant was aware of the registered number of the offending vehicle or anything written on the said motor vehicle, a tempo, written as “YALGUD DUDH” in vernacular Marathi.

5 During the trial, the trial Court disbelieved the evidence of PW 2 and PW 5 who were allegedly residing near the spot of accident. However, they also were not aware regarding registration number of the tempo. Moreover, according to their evidence they

knew that there was some writing on the tempo as “YALGUD DUDH” and it was known to them from other persons. The trial Court also doubted the statement allegedly given by the complainant injured in the hospital on the very next day of the accident. This is for the reason that said injured was in the hospital for more than ten days and was operated for his fractured hand and wrist and was all along taking treatment and he was initially unconscious after the accident and was removed to the hospital. As such the trial Court doubted whether it was in fact the statement of said injured that he saw the writing “YALGUD DUDH” on the tempo.

6 Apart from the above, the trial Court also doubted the involvement of the tempo with which the respondent was arrested on the ground that the prosecution did not produce any material to show that on the relevant time of the accident it was only tempo being plied in that area and there were no other tempos having the writing “YALGUD DUDH”. As such, ultimately, the trial Court came to the conclusion of non-establishing of the charges against the respondent-accused and acquitted him.

7 Considering the substantive evidence of the prosecution witnesses, in the opinion of this Court, the view taken by the trial Court was probable and it cannot be said that the judgment of acquittal is of such a perverse nature so as to interfere with. As such there is nothing to re-agitate the matter by allowing the State to prefer appeal challenging the acquittal. Hence, application for leave to file is dismissed and disposed of.

(A.R.JOSHI, J.)