

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

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CRIMINAL APPLICATION NO.157 OF 2014

The State of Maharashtra	.. Applicant
Vs.	
Prabhakar Rupchand Kalokhe	.. Respondent

....
Mrs.S.V. Gajare, A.P.P. for Applicant – State.

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CORAM : ABHAY M. THIPSAY, J.

DATED : JANUARY 5, 2015.

P.C. :

The respondent was prosecuted on the allegation of having committed the offences punishable under Section 279 of IPC, 337 of IPC, 338 of IPC and Section 184 of the Motor Vehicle Act. The learned Judicial Magistrate First Class, Kalyan, after holding a trial, found the respondent not guilty and hence acquitted him of the said offences. The State of Maharashtra being aggrieved by the said order of acquittal has filed the present application seeking leave to appeal from the said Judgment and order of acquittal.

2 I have heard Ms.Gajare, the learned Additional Public Prosecutor. I have gone through the impugned Judgment and the

objections to the same, as reflected from the grounds of Appeal, taken in the application.

3 The Magistrate based the order of acquittal on the ground that 'the prosecution had failed to establish that it was the respondent who was driving the offending vehicle at the material time'.

4 Apart from the fact that no evidence that the respondent was the driver of offending vehicle, was adduced in the trial, the Magistrate further observed that the case of the prosecution itself was that the injured victim had not seen the driver of the offending vehicle. It appears that an argument was advanced before the magistrate by the learned assistant public prosecutor incharge of the trial that 'since there was no specific denial with respect to his identity by the respondent, the identification should be held, as established'. Such a submission, has rightly been rejected by the learned Magistrate.

5 The learned Magistrate has also observed that the investigating officer had also not brought anything on record to show the connection of the respondent with the accident.

6 In the Memo of Appeal, there is no challenge to these observations made by the Magistrate. It is not even suggested as to how the identity of the respondent, as the culprit, was established.

7 The judgment of acquittal, as recorded by the Magistrate, is proper and legal. No interference therewith is warranted.

8 Leave refused.

9 Application is rejected.

(ABHAY M. THIPSAY, J.)