

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL REVISION APPLICATION NO. 671 OF 2009

Arun Mahadeo Patil .. Applicant

Versus

The State of Maharashtra & Anr. .. Respondents

Mr. V. S. Talkute, Advocate for the applicant

Mr. V.B. Konde-Deshmukh, Advocate for the respondent-State.

CORAM:-M.L. TAHALIYANI,J.

DATED : -20/02/2015

P.C.

Respondent No. 2 is not the necessary party. His name shall be deleted.

2 By consent of the learned counsel for the applicant and learned APP for the respondent-State, the revision application is heard finally.

3 I have gone through the judgments of the trial Court and the appellate Court. The judgments of the trial Court and appellate Court are mainly based on the evidence of two

child witnesses. The injury was sustained by the witness-Tejas (PW 4). It is stated by him in his evidence that car came in high speed and gave dash to him. His statement is corroborated by Ajit (PW 3). However, it is not stated by either of the witnesses as to from which direction the car was coming. It is also not stated by either of the witnesses at which place of the road injured Tejas was walking. The manner in which the accident had occurred is also not described by either of the witness. Therefore, only because a dash was given by the car driver it cannot be said that the car driver was negligent and rash in driving the car.

4 In my opinion, the judgments of the learned Magistrate and the appellate Court/Sessions Court need to be set aside.

Revision application is allowed. The orders passed passed by the learned Magistrtate and Sessions Court are set aside. The petitioner is acquitted of the offences punishable

u/ss. 279 and 338 of IPC. His bail bonds shall stand cancelled.
The fine, if any, paid shall be refunded to the petitioner
immediately.

(JUDGE)

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