

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO. 447 OF 2013

Aarati Santosh Shetty

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. A.A.H. Ponda a/w Mr. Vishal Kolekar for the
Applicant.

Mr. V.B.K. Deshmukh, APP for Respondent -State

Mr. P.N. Wagh for the Intervener.

CORAM:-M.L. TAHALIYANI, J.

DATED :3rd JULY, 2015.

P.C.

Admit. Heard finally.

2. Heard learned counsel for the Applicant and learned APP
for the Respondent-State of Maharashtra.

3. The Applicant has been charge-sheeted for the offences
punishable under sections 279, 338 and 304-II of the IPC. The
Applicant admittedly was driving the car and the said car met with an
accident. In the result one person died and three persons got injured.
After investigation the Applicant has been charge-sheeted for the
above stated offences. His application for discharge has been rejected.

4. As far as contents of the alcohol in the blood of the Applicant is concerned the blood report states that blood contained 14 mg alcohol. Learned counsel for the Applicant however, has submitted that whether accident involved culpability of the Applicant or it was purely an accident or whether it was due to rash and negligent driving has not been determined by the Trial Court after taking into consideration all the material on record. It is brought to my notice that there are two witnesses whose statements have been recorded by the police and they have stated that a dog suddenly came in front of the car and that the Applicant made an attempt to save the dog and in the result the car turned turtle. Learned APP concedes that this aspect of the case has not been considered by the learned Trial Judge while deciding the application for discharge from the offence under section 304-II of the IPC.

5. I have gone through the impugn order and I find that this aspect has not been considered in the order and there is no mention of statements of two witnesses viz. Mrs. Priya @ Pooja Sudesh Shetty and Ms Gargi Ganatra in the order of the learned Trial Judge.

6. In view thereof, order of learned Trial Judge is set aside and he is directed to hear learned Advocate for the Applicant afresh and decide the prayer of the Applicant after taking into consideration all the statements recorded by the police including these two witnesses whose names have been stated hereinabove.

7. The criminal revision application stands disposed of.

(JUDGE)