

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL REVISION APPLICATION NO. 73 OF 2017
WITH
CRIMINAL APPLICATION NO. 1229 OF 2017
IN
CRIMINAL REVISION APPLICATION NO. 73 OF 2017**

Nandu Chindha Jadhav

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....

Mr. D.D. Choudhari, Advocate for applicant.

Mr. K.N. Lokhande, A.P.P. for respondent – State.

....

**CORAM : V.L. ACHLIYA, J.
DATED : 07th APRIL, 2017**

ORDER :

1. The applicant - accused has preferred this revision application challenging the judgment and order dated 12th December, 2011 passed by the Judicial Magistrate First Class – 2, Dhule in S.T.C.C. No. 6203 of 2004 as well as judgment and order dated 28th February, 2017 passed by the Sessions Judge, Dhule in Criminal Appeal No. 1 of 2012 rejecting the appeal and confirming the sentence passed by the Trial Court.

2. Learned Counsel for the applicant submits that the judgment and order passed by the Trial Court is not sustainable in law. He submits the reasons and findings recorded on the basis of improper appreciation of evidence. He submits that the prosecution has not examined informant, investigation officer and medical officer as well as person in front of whose field the accident was occurred. He submits that due to non-examination of the said witnesses, serious prejudice has been caused to applicant. He further submits that the witnesses examined by the prosecution have not deposed the exact speed worth which the vehicle was driven at the time of incident.

3. As against submissions of the learned Counsel for applicant, learned A.P.P. supported the judgment and order of the Courts' below with contentions that same are reasoned and based upon due appreciation of evidence advanced in case. He submits that there are concurrent findings on facts recorded by the Courts' below. Hence there is absolutely no scope to invoke the revisional jurisdiction of this Court.

4. In order to appreciate the submissions, I have perused the impugned judgment and order passed by the Trial Court as well as the Appellate Court. In my view, there is absolutely no case made out to entertain the revision application. The applicant was tried for committing

offences punishable under Sections 304-A, 279, 337 and 338 of the Indian Penal Code and Sections 187 and 192(1) of the Motor Vehicles Act.

5. In nutshell, prosecution has approached with a case that on 22nd July 2004, the applicant was driving a matador used for carriage of goods in contravention of all the rules and regulations of road and traffic and in gross violation of provisions of Motor Vehicles Act and Rules framed thereunder. The applicant was carrying about 45 persons in the matador as passengers though vehicle was mean for transport of goods. He was driving the vehicle in most rash and negligent manner. The matador turns turtle which resulted into causing injuries to about 30 persons. Out of those injured, two persons succumbed. Some of the persons suffered serious injuries. In order to prove his case, prosecution has examined 11 witnesses. Out of the 11 witnesses examined by the prosecution, 9 witnesses were witness to the incident and sustained injuries in that accident. The documents such as the postmortem report and other documents appeared to have been admitted in the evidence with no objection given by the defence.

6. The fact of accident, death of the passengers and injuries sustained by the accused were not disputed. This could be gathered from

the testimony of the witnesses examined by the prosecution. The defence was taken that steering of the vehicle got jammed at the turning and therefore the accident was occurred. The witness to the incident and particularly the persons sitting in the cabin of the matador denied the suggestions given to that effect in cross examination. No defence witness was examined. There is no evidence to show that there was any mechanical fault suddenly developed in vehicle which has resulted into the accident and the accident was caused due to reason beyond the control of the accused. Non-examination of investigation officer and autopsy surgeon has not caused any serious prejudice to the applicant. Since the cause of death of deceased was not in dispute and postmortem report was admitted by defence hence, there is no question of any prejudice being caused due to non-examination of the medical officer. So also there were no serious omissions and contradiction to be proved through investigation officer. Hence no serious prejudice caused due to non-examination of medical officer.

7. In view of this, there is no merit in the revision. No case is made out to invoke the revisional jurisdiction. I am therefore not inclined to admit the revision application. Accordingly, revision application is not admitted and rejected at the stage of admission.

8. In view of non-admission of the revision application, the application filed seeking bail stands disposed of as rejected.

(V.L. ACHLIYA, J.)

SSD