

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.71 OF 2017

The State of Maharashtra	Applicant
V/s.	
Aakash D. Sarvade	Respondent

Mrs. G.P.Mulekar, APP for State.
None for Respondent.

CORAM : SANDEEP K. SHINDE, J.

DATE : July 3, 2017.

P.C. :

Aggrieved by the acquittal recorded in the Sessions Case No.828 of 2014 by the learned Additional Sessions Judge, City Sessions Court, Greater Bombay, the State has preferred this application for leave to file appeal.

2 The respondent-Accused was acquitted of all the charges and offences punishable under Sections 353, 333 and 279 of the IPC read with Sections 180, 184, 196 read with Section 132 of the Motor Vehicle Act. In December, 2013, Dnyaneshwar Ladse attached to Kanjurmarg Police Station as Police Naik was on duty with Police Constable

Hemant Thakur (Injured) to keep vigilance against chain snatching incidents. At the relevant time, one motor-cycle with pillion rider was proceeding towards Bhandup Station. The first informant on suspicion gave signal to the bikers. However, bikers tried to dodge the signal and tried to escape. That while finding escape route, he had given dash to injured which resulted in multiple injuries as well as caused fracture to his right leg. On report by Dnyaneshwar Ladse, offence under Sections 279, 353 and 333 of IPC were registered along with offences under the Motor Vehicles Act.

3 Prosecution examined 9 witnesses. Upon appreciation of evidence, respondent-accused was acquitted. Admittedly, respondent-accused was not found with incriminating articles or with stolen property on his person when he was apprehended. There are no criminal antecedents against him. Evidence would also establish that motor-cycle gave dash to the injured from behind and there were three speed-breakers nearby the place of incident. Prosecution witness has stated that while

travelling in high speed towards Bhandup Station and after giving them signal, the respondent-accused tried to escape and in the course of said event, it gave dash to the injured.

4 Upon appreciating evidence on record, in my view, it was purely an accident. In fact, there appears nothing on record to suggest that the respondent-accused voluntarily caused grievous hurt to the injured and, therefore, at the first place, there was no material for committing the case to the Court of Sessions. Be that as it may, evidence on record has not established that the alleged dash given by the respondent-accused to the injured was with intention to prevent or deter injured from discharging his duty as public servant.

5 In view of these facts, there is no substance in the application. Accordingly, leave is refused. Application is dismissed and disposed of accordingly.

(SANDEEP K. SHINDE, J)