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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO. 371 OF 2017
WITH
CRIMINAL APPLICATION NO. 350 OF 2017
WITH
CRIMINAL APPLICATION NO. 382 OF 2017**

Anil Gorakhnath Tiwari	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Amar Bhat i/b. Mr. Maheshkumar Deviprasad Tiwari for the Applicant.

Mr. R. R. Mishra for Respondent no. 2

Mr. Vinod Chate, APP for the State.

CORAM : A. K. MENON, J.

DATE : 27th JULY, 2017

P.C.:

1. The applicant-original accused challenges an order dated 9th June, 2017 whereby he was convicted and sentenced in Criminal Case No. 1371/PS/10 of 1st April, 2015 for offences punishable under Sections 279, 337, 338 and 427 of the IPC. In Criminal Appeal No. 404 of 2015 his conviction and sentence under Section 427 was set aside and he was acquitted. However, conviction under Section 279, 337 and 338 were maintained. The Sessions Court granted him time to surrender. In the meantime, the surrender dead line was extended upto 4th July, 2017. On 4th July, 2017 the dead line was extended further to 20th July, 2017.

2. In the meantime the original complainant and the applicants arrived at a compromise. The original complainants have since appeared in Court. On 20th July, 2017 Counsel for both side made a statement that the victims Raju Ghodke, Deepika Pawar and Sangita Ghodke had arrived at a compromise with the applicant and the matter could be finally disposed of. Since these three persons were not parties they were directed to be impleaded as formal parties. On 27th July, 2017 the matter was taken up and all three complainants / victims remained present in Court.

3. Three affidavits have been filed on 25th July, 2017 by the aforesaid victims . All of them state that they were ready to compound the offence and they have no grievance against the accused. The offences under section 337 and 338 being compoundable and further they have no objection to the Court quashing and setting aside the conviction under Section 279 of the IPC. Their affidavits are seen to have been interpreted by the sworn interpreter of this Court. Affidavit are taken on file. All three of them have confirmed that their consent was not obtained by undue influence or coercion.

4. I have perused the impugned orders. The fact reveal that there was a minor collision between an autorickshaw and Tavera car in which three victims were traveling. Accused applicant was driving the autorickshaw. The autorickshaw turned turtle and the victims sustained injuries.

5. The trial Court held the vehicle was in high speed and therefore accused could not control the vehicle. It also records that there was a damage to the tyre in the right side. There is no finding that the tyre had burst. Therefore trial Court rejected the application and concluded that the accident was due to negligence of the accused.

6. Having considered the order of the Metropolitan Magistrate Court and the Sessions Court there is some doubt as to whether the vehicle was at a speed of 30 kmph or faster. The Sessions Court has also not accepted the version of the accused. However, considering the fact that the parties have now arrived at a compromise and have sought to compound the offence under Section 337 and 338 and further accused applicant having acquitted under section 427, I find it appropriate that the conviction and sentence under Section 279 is also quashed and set aside. Hence sentence of three months imprisonment under all the Sections is also set aside.

7. In the circumstances, I pass the following order :

(i) The revision application is allowed and the order of the Sessions Court dated 9th June, 2017 and Order of the Metropolitan Magistrate Court in C.C. No. 1371/PS/2010 dated 1st April, 2015 and the conviction and sentence of the applicant are quashed and set aside.

(ii) In view of the above order, Criminal Application nos. 350/2017 and 382/2017 does not survive.

(iii) The applicants shall pay costs of Rs. 2000/- to the Maharashtra State Legal Services Authority within one week from the date this order is uploaded. If costs are not paid the impugned orders will revive without further orders of this Court. Stand over for compliance to 7th August, 2017.

(iv) Parties to act on an authenticated copy of this order.

(A. K. MENON, J.)