

*Nalawade*FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 87 OF 2013
The State of Maharashtra vs. Jamir S. Deshmukh

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Ms. P.N.Dabholkar,APP for the Respondent-State.

CORAM :A.S.GADKARI, J.

DATE : 09th March, 2018

P.C.

1. This is an application under Section 378(3) of Cr.P.C. for leave to file appeal against the Judgment and Order dated 17.4.2012 passed by the Judicial Magistrate First Class, Jawhar in SCC No.310/2005 thereby acquitting the respondent for the offence punishable under Section 304(A) of the Indian Penal Code and under Section 183 and 184 of the Motor Vehicle Act.

2. Heard the learned APP. and perused the record.

3. The record indicates that, as a matter of fact, the respondent has been convicted by the Trial Court under Section 279 of the Indian Penal Code for driving the vehicle in rash and negligent manner on a public way. However, has been acquitted under Section 304(A) of the Indian penal Code read with Section 187 of the Motor Vehicle Act. The evidence on record

indicates that the Trial Court has recorded a finding that the deceased Digambar was dashed by a truck which was driven by the respondent, inadvertently/ accidentally due to which he suffered injuries and subsequently succumbed to it. The prosecution has failed to adduce sufficient and cogent evidence thereby drawing a safe conclusion that the respondent was in fact guilty of offence under Section 304(A) of the Indian Penal Code and under Section 184 and 187 of the Motor Vehicle Act.

4. After perusing the record this Court is of the considered opinion that the view adopted by the Trial Court is a reasonable and probable view in the facts and circumstances of the present case.

No case for grant of leave to file appeal against acquittal under Section 304(A) of the Indian Penal Code is made out.

5. Application is accordingly rejected.

(A.S.GADKARI, J.)