

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL REVISION APPLICATION 28 OF 2013

(Bisan s/o. Ramratan Kursunghe...vs.. State, thr PSO, PS Duggipar, Gondia)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri Rajnish Vyas, counsel for applicant.
Shri V.A. Thakre, Addl. Public Prosecutor for respondent / State.

CORAM: ROHIT B. DEO, J.

DATE: 7th June, 2018.

Heard.

2 Challenge is to the conviction recorded by the

Judicial Magistrate First Class, Sadak Arjuni in Summary
Criminal Case 1784 of 2009 dated 20.3.2012. The sentence
imposed is rigorous imprisonment for three months and
payment of fine of Rs. 700/- for offence punishable under
section 279 of Indian Penal Code and simple imprisonment
for one month and to payment of fine of Rs. 700/- for the
offence punishable under section 184 of the Motor Vehicles
Act. This judgment was upheld by learned Sessions Judge,
Gondia in Criminal Appeal 16 of 2012 by judgment dated
2.1.2013.

3 The learned counsel Shri Rajnish Vyas urges that

findings recorded by the Courts below are inconsistent with the material on record. The submission is, that the fact that the applicant – accused who was driving his matador dashed against the motorcycle parked on the bridge ipso facto is not suggestive of culpable negligence. However, attractive as the submission is, in exercise of limited jurisdiction under section 401 of the Criminal Procedure Code, I am not inclined to re-appreciate the evidence on record.

4 However, having regard to the proved facts, the date of incident and the fact that concededly nobody is injured in the incident, I am not inclined to uphold the sentence of imprisonment awarded by the Courts below.

5 While I maintain the conviction recorded by the Courts below, the sentence of imprisonment is set aside and instead the fine is enhanced from Rs. 700/- to Rs. 1,000/-.

6 The Revision Application is partly allowed and disposed of.

JUDGE

RS Belkhede