

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

CRIMINAL APPLICATION (APPA) NO.305/2015

IN
CRIMINAL APPEAL NO. _____/2015

State of Maharashtra

..Vs..

Sheikh Abdul S/o Sheikh Umar

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

Court's or Judge's orders

Shri T.A. Mirza, A.P.P. for the applicant.

CORAM : Z.A. HAQ, J.

DATE : 23.10.2018.

The office note shows that the respondent is served. None appears for the respondent. Heard Shri T.A. Mirza, A.P.P. for the appellant / State.

The State of Maharashtra has filed appeal to challenge the judgment passed by the learned Magistrate acquitting the respondent of the charge of commission of offence punishable under Sections 279 and 337 of the Indian Penal Code and Section 184 of the Motor Vehicles Act. The State / appellant seeks leave to file appeal.

With the assistance of the learned A.P.P., I have gone through the impugned judgment and the depositions.

After assessing the evidence on record, the learned Magistrate has concluded that the prosecution has not been able to establish that the offence is committed by the respondent. None of the witnesses have supported the case of the prosecution that the

victim suffered injuries in an accident involving the vehicle regarding which complaint is made. The learned Magistrate has recorded that the prosecution has not been able to prove that the respondent was driving vehicle which gave dash to the victim. It cannot be said that the conclusions of the learned Magistrate suffer from any illegality or perversity. The appellant / State has not made out any case for grant of leave. Prayer for grant of leave to file appeal is **dismissed**. Consequently, the appeal is **rejected**.

While examining the matter, it has come to my notice that the prosecution has not been conducted diligently. It goes unexplained as to why relevant facts, which would have helped the Court in deciding the matter, are not brought on record. The prosecution has not taken steps to bring on record whether claim petition was filed by the victim under the Motor Vehicles Act or not. The prosecution should have been more vigilant in prosecuting the matter. In my view, it was the duty of the prosecutor also to guide the investigating agency in the matter.

The Director of Prosecution shall take note of the matter. The office of Public Prosecutor to send copy of this judgment to Director of Prosecution immediately.

JUDGE