

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 582 OF 2012

The State of Maharashtra
(Through Vikramgad Police Station,
Dist. Thane)

... Appellant.
(Orig.Complainant)

Vs.

Sunil Laxman Ghute
Age 30 years, R/o Sakharshet, Tal. Jawhar,
District Thane.

... Respondent.
(Orig.Accused)

Mr. S. S. Hulke, A.P.P. for Appellant-State.
Mr. B. G. Tangsali for the Respondent.

CORAM : A.S. GADKARI, J.
DATE : 16th December 2020.

ORAL JUDGMENT :

The appellant-State has impugned Judgment and Order dated 14th September 2011 passed by the learned Judicial Magistrate, First Class, Jawhar, District Thane, in Summary Criminal Case No. 302 of 2009, acquitting the respondent from the offence punishable under Sections 279, 337, 338 of the Indian Penal Code and Section 184 of the Motor Vehicles Act, 1988.

2. Heard Mr. Hulke, learned A.P.P. for the Appellant-State and Mr.Tangsali, learned counsel for the respondent. Perused the record.

3. It is the prosecution case that, on 19th October 2009, in the morning, at about 10.00 a.m. within the jurisdiction of Jambha village, the respondent drove his Santro car bearing No.MH-05-AJ-1500 of Hyundai Company in rash and negligent manner and gave dash to Ms. Sarita G. Lakhan on Jawhar-Vikramgad road and caused grievous hurt to her lower left limb (below knee) and thereby committed the present Crime. The prosecution examined in all four witnesses including the injured Ms. Sarita to substantiate its case against the respondent. The Trial Court has acquitted the respondent by its impugned Judgment and Order, as noted earlier.

4. The eye witness namely Mr. Bacchu Girandhale has admitted that, the injured Ms. Sarita, without verifying the fact whether vehicles were passing through the road or not, tried to cross it and in that event, she suffered injury due to the dash of the car of the respondent. The injured witness namely Ms. Sarita has admitted that, at Jambha bus stop many people were present. She did not lost conscious after dash. The respondent had been to the hospital. The villagers demanded money from the respondent and he paid Rs. 2000/- towards her medical expenses. The other eye witness has also stated that, Ms. Sarita did not verify the flow of vehicles on Jawhar-Vikramgad Road and tried to cross it.

5. The record indicates that, the prosecution has failed to prove beyond reasonable doubt that, it was because of the rash and negligent driving of the respondent, Ms. Sarita was knocked down. The Trial Court has recorded a finding that, it was equally the negligence on the part of injured in not taking proper caution while crossing the road and due to which the said accident has occurred. It appears from the record that, it is a pure unintentional accident and none else.

6. In view of the above and after perusing the entire record, this Court is of the view that, the Trial Court has not committed any error while passing the impugned Judgment and Order.

There are no merits in the Appeal and is accordingly dismissed.

(A.S. GADKARI, J.)