

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 371 OF 2019

Kamini C. Shah ...Applicant
Versus
The State Of Maharashtra And Anr. ...Respondents

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Mr. Chetan Damre, Advocate for the Applicant.

Mr. Ravindra B. Mungekar, Advocate for Respondent No.2.

Mr. Arfan Sait, APP for the Respondent – State.

Mr. R. R. Ghadigaonkar, (P.S.I.) Dadar Police Station, Present.

CORAM : PRAKASH D. NAIK, J.
DATE : 22nd JUNE, 2022.

PER COURT:

1. The applicant is being prosecuted for offence under Section 279 and 337 of Indian Penal Code. The First Information Report was registered on 25th December, 2015.

2. It is the case of the prosecution that the victim was walking on the road and proceeding towards her residence along with her husband. At that time the accused, who was driving the vehicle in speed dashed at her. On completing investigation, charge-sheet is filed. The trial court took cognizance of the charge-sheet. The order taking cognizance by trial Court was challenged before the Sessions Court by preferring Criminal Revision Application. The said application was rejected by the learned Sessions Judge vide

order dated 11th February, 2019.

3. Learned counsel for the applicant submitted that the act alleged in the First Information Report would not attract either Section 279 of IPC or Section 337 of IPC. The injured did not sustain any injury. The requirement to invoking the said criminal provisions is that the act of accused should be rash and negligent. There is no element of either rash or negligent on the part of the accused. The Revision Application was rejected by the Sessions Court mechanically. No case was made out for taking cognizance of the charge-sheet.

4. Learned APP submitted that the FIR and the other documents which are form part of charge-sheet makes out the offence against the applicant.

5. Learned counsel for Respondent No.2 submitted that plea of the accused has been recorded by the trial court and the trial would proceed within short span of time. The statement of the injured and her husband recorded during investigation prima facie makes out the offence.

5. I have perused the FIR, statement of eye witness, who is the husband of the complainant and other documents which forms part of charge-sheet. The first informant has stated that the accused

came in speed in her vehicle and dashed at her. At this stage, the averments in the statement of the complainant and charge-sheet is required to be considered. The Court is not required to enter into roving inquiry. On the basis of material on record, the trial court had taken cognizance. The submissions of learned counsel for the applicant will have to be appreciated during evidence.

6. Hence, I pass the following order:

ORDER

- i. Criminal Application No.371 of 2019 is rejected and disposed of;
- ii. It is clarified that the observations made in this order are prima facie for entertaining this application. The trial court shall not be influenced by this order as well as order passed by this Court in Criminal Revision Application and shall decide the proceedings in accordance with law.

(PRAKASH D. NAIK, J.)