

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

CRIMINAL REVISION APPLICATION (REVN) NO.105/2022

Durgesh s/o Bapu Shegamwar

...Versus...

The State of Maharashtra Through Police Station Officer, Police Station Jivati,
Tah. Jivti, Dist. Chandrapur

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

Court's or Judge's orders

Shri C.B. Barve, Advocate for applicant

CORAM : AVINASH G. GHAROTE, J.

DATE : 21/04/2022

1. Heard Shri Barve, learned Counsel for the applicant.

2. The revision challenges the judgment of the learned Judicial Magistrate First Class in Summary Criminal Case (S.C.C.) No.833/2011, whereby the applicant has been convicted for the offences punishable under Sections 279, 337, 304-A of IPC and Sections 184, 134 (a) (b) punishable under Section 187 of the Motor Vehicles Act, 1988 (pg.61) and sentenced to suffer Rigorous Imprisonment for three months and fine of Rs.1,000/-, i/d Rigorous Imprisonment for 15 days in respect of the offence punishable under Section 279 of IPC; Rigorous Imprisonment for one year and fine of Rs.3,000/-, i/d Rigorous Imprisonment for one month in respect of the offence punishable under Section 304-A of IPC; Rigorous

Imprisonment for one month and fine of Rs.500/-, i/d Rigorous Imprisonment for seven days in respect of the offence under Section 134 (a) (b) punishable under Section 187 of the Motor Vehicles Act. In appeal, the said conviction has been confirmed by dismissal of the appeal by the judgment dated 08/04/2022 by the learned Sessions Court, Chandrapur (pg.32).

3. It is contended by the learned Counsel for the applicant that though there is evidence on record, to indicate, that the accident had taken place, on a curving road, in which the truck driven by the applicant was coming downwards and the motorcycle driven by the deceased was coming upwards and necessary precaution was taken by the applicant while driving the vehicle, a finding to the contrary has been arrived at by ignoring the material evidence on record. Inviting my attention to the evidence of P.W.1- Sumanbai Bhongle, the wife of the deceased, who was also riding pillion with him at the relevant time, it is submitted that there are material contradictions in her evidence as spelt out in the cross-examination (pg.66) and the evidence of P.W.3 – Kamlabai Rathod (pg.70), who states in the cross-examination, that the applicant while driving the vehicle down, on the turn, was blowing the horn and the accused was not at fault. It is submitted that this evidence was not properly appreciated by the Courts below, considering which, issue notice for final disposal at the stage of admission to the non-applicant, returnable on 04/05/2022.

4. Learned Additional Public Prosecutor Shri A.R. Chutke waives service of notice for the non-applicant/State.

5. Learned Counsel for the applicant to place on record the paper-book of the Sessions Court and all the exhibited documents by the Court.

CRIMINAL APPLICATION (APPR) NO.119/2022

1. This is an application for suspension of sentence filed by the applicant.

2. Considering the reasons recorded above for issuance of notice and the evidence of PW.1 and PW.3, the sentence imposed by the learned Judicial Magistrate First Class, is hereby suspended and the applicant be released on bail upon executing P.R. Bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand Only) and one surety in like amount.

3. Criminal application is allowed and disposed of accordingly.

(AVINASH G. GHAROTE, J.)