

Shiv

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.504 OF 2014**

The State of Maharashtra
Through Tasgaon Police Inspector
Tasgaon Police Station

... Appellant

Vs.

Pravin Bhagwan Patil
R/at Nagaon Kavathe, Taluka Tasgaon
District Sangli

... Respondent

Mr. Y. Y. Dabke APP for the Appellant-State.

None for the Respondent.

CORAM : S. M. MODAK, J.

DATED : 2ND FEBRUARY 2023

JUDGMENT :

1. Considering the findings of trial Court, I have heard learned APP, even though no one has appeared on behalf of the Respondent-accused.

2. The Respondent-accused was prosecuted for the offence punishable under Sections 279, 337, 338 of the Indian Penal Code and Sections 184, 134(b) of the Motor Vehicles Act for rash and negligent driving of Qualis car on 24th January 2010, at about 12.30 hours on Tasgaon-Sangli road. He dashed Honda Activa scooter and injured the

driver – Kashinath Namdeo Patil (PW 2) and pillion rider his wife – Sudha Kashinath Patil. They were admitted to hospital of Dr.Satyajeet Patil. The husband-Kashinath received serious injuries. The wife-Sudha lodged complaint with Tasgaon police station on 24th January 2010. During investigation, involvement of the Respondent-accused was disclosed and that's why he is charge-sheeted. There were only four witnesses examined, except Investigating Officer.

3. PW 4 – Uttar Patil has not supported so far as identification of driver of the offending vehicle. On other aspects he has supported the prosecution case. Whereas in the complaint lodged by wife-Sudha, she has not disclosed registration number of Qualis car. However, before the Court she has given registration number of Qualis car. She could not assign any reason why registration number is not mentioned in her complaint. Whereas other injured driver-Kashinath has also stated registration number of Qualis car. He was not knowing the Respondent-accused prior to incident. Initially, the complainant and her husband were taken to Civil Hospital, Sangli and then to hospital of Dr. Satyajeet Patil.

4. PW 1-Anil Patil is spot panch. The Honda Activa scooter was found on spot in damaged condition. On this evidence, the trial Court acquitted the Respondent-accused.

5. Learned APP has taken me through these findings. It is true that identification of driver and of the offending vehicle is important. From the evidence, it cannot be said that it is established. The observation of the trial Court is correct, unless the identification of

vehicle is established, it is no correct to hold accused guilty. If it could have been established, then owner and driver of vehicle could have been searched. There is no dispute about the incident and injuries caused to the complainant and her husband. But involvement of Qualis vehicle and it was driven by the Respondent is not proved beyond reasonable doubt. Hence, there is no merit in the Appeal and hence, it is dismissed.

(S. M. MODAK, J.)