

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

CRIMINAL REVISION APPLICATION NO.104 OF 2024.

Dharmendra Yugalkishor Jha ...Applicant

vs.

The State of Maharashtra ...Respondent

Ms. Priyanka H. Chavan :-	Advocate for Applicant.
Mr. A. S. Gawai :-	APP for State.

CORAM : S. M. MODAK, J.

DATE : 27th JUNE 2024

P. C. :-

1. Heard learned Advocate Ms. Chavan for the Applicant / Accused No.1 and learned APP.

2. Summary of investigation is mentioned on page No.-49. Crux of the allegations are as follows:-

- (i) Accused No.-1 Dattatray drove the vehicle **Bolero** Maxi Truck Plus Pick Up. He was not holding a valid license to drive a transport vehicle. He was holding license to drive Light Motor Vehicle not transportable.

Legible and typed copies are taken on record and marked as Annexure-X.

- (ii) Whereas the allegation against the present Applicant is he allowed Accused No.1 to drive the vehicle knowingly fully well that accused No.1 was not possessing the valid license.

3. She made two submissions. They are as follows :

- (i) Both were driving vehicle earlier also and said reference had come in the statements of witnesses on page Nos.156 and 166.
- (ii) The person holding a license to drive motor vehicle non-transport can also drive a transport vehicle.
- (iii) She relied upon judgment delivered by Hon'ble Supreme Court in case of **Mukund Dewangan vs. Oriental Insurance Co. Ltd.**, (2017) 14 SSC 663.

She invited my attention to the observations in paragraph No.30 and paragraph No.59.

4. On the basis of these observations there is circular issued by the Government of India on 16th April 2018. (Page-505)

5. There is further reference to a Larger Bench and Hon'ble Supreme Court judgment in case of **M/s. Bajaj Alliance vs. Rambha Devi & Ors.**, Civil Appeal No.841 of 2018. The Hon'ble Supreme

Court has clarified older view is applicable till the time issues are decided by Larger Bench. The judgment is taken on record.

6. According to her, no knowledge can be attributed which is ingredient of offence under section 304 of Indian Penal Code and it must first fall under section 299 of the Indian Penal Code.

7. Learned APP relied upon the observations of trial Court while rejecting discharge application. Certainly he can rely upon those observations but let him point out what is material from charge sheet about handing over the vehicle by this Applicant / Accused No.2 to Accused No.1.

8. Stand over to **1st August 2024**. Interim to continue.

[S. M. MODAK, J.]

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