

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

**CRIMINAL REVISION APPLICATION NO.495 OF 2024
WITH
INTERIM APPLICATION NO.3540 OF 2024**

Nitin Sarjerav Patil

...Applicant

vs.

State of Maharashtra

...Respondent

NIKITA
KAILAS
DARADE
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NIKITA KAILAS
DARADE
Date: 2024.09.09
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Mr. Kuldeep Nikam a/w Om. N. Latpate :-	Advocate for the Applicant.
Ms. S. E. Phad, APP for the State.:-	APP for the State.
Mr.Anand Mahadev Daingade : Head Constable:-	Miraj City Police Station, Sangli.

CORAM : S. M. MODAK, J.

DATE : 9th SEPTEMBER, 2024

P.C. :-

1. Heard learned counsel Mr.Kuldeep Nikam for the Applicant and Ms.S.E.Phad, learned APP for the State.
2. There is a conviction for the offence punishable under Sections 304-A, 279 of IPC. His Appeal was dismissed by the Appellate Court. Five witnesses were examined. With their assistance, I have gone through the evidence. They are as follows:-

1. PW-1:- The owner of medical shop.
 2. PW-2 :- Panch to seizure panchanama.
 3. PW-3 :- Spot Panch.
 4. PW-4 :- Another eye witness not supported.
 5. PW-5 :- Investigating Officer.
3. After hearing them, I am going through the record. Following are the circumstances against the Applicant:-
- (a) The evidence of PW-1 (according to Mr.Nikam, the answers given during the cross-examination were not considered).
 - (b) The brake marks noticed in spot panchanama.
 - (c) The Applicant himself produced the vehicle involved in the accident.
 - (d) He took the deceased to hospital. The incident took place on 11th February 2012 and he died on 20th December 2012.
 - (e) The answers given in a 313 statement of Cr.P.C. Learned APP invited my attention to certain positive answers.
4. According to Mr.Nikam, above evidence does not shows rashness and negligent Act. He relied upon following judgments:-
- (a) *State of Karnataka v/s. Satish*¹
 - (b) *Kisan Pandurang Pachange v/s. State of Maharashtra*²
 - (c) *Ravi Kapur v/s. State of Rajasthan*³
 - (d) *George v/s. State of Kerala*⁴

1 (1998) 8 Supreme Court Cases 493

2 2004(1) Mh.L.J.261

3 (2012) 9 Supreme Court Cases 284

4 Criminal Appeal No. of 2024 (Arising out of SLP (Criminal) No.11041 of 2024) : 3rd September 2024 : Supreme Court of India

5. Whereas, according to learned APP, the facts are different. She supported the two judgments.
6. Whereas, query is made as to whether the compensation is paid. After instructions, Mr.Nikam produced a copy of order dated 2nd February 2016 passed by the MACT – Sangli regarding compromise. It is marked as Annexure "X" .
7. Stand over to **10th September 2024**, on supplementary board.

[S. M. MODAK, J.]