



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 738 OF 2005

The State of Maharashtra,
Through ASI Prakash Manga Wagh,
Dhule Taluka Police Station.

Appellant
(Ori. Complainant)

VERSUS

Govind Shankar Jadhav,
Age : 45 Years, Occ. Service,
R/o. Icchapurti Society,
Sakri Bypass Road, Dhule.

Respondent
(Ori. Accused)

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A.P.P. for the Appellant State : Mr. D. J. Patil
Advocate for Respondent No.1 :Mr. Parth Salunke h/f
Mr. Nilesh N. Desale

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CORAM : SANDIPKUMAR C. MORE, J.

RESERVED ON : 6TH FEBRUARY, 2025
PRONOUNCED ON : 10th FEBRUARY, 2025

JUDGMENT :-

1. The appellant/State has filed this appeal challenging the judgment and order dated 04.07.2005 passed by the learned trial Court i.e. 7th Joint Judicial Magistrate, Dhule in Summary Trial Case No. 3233 of 2004. Under the aforesaid judgment, the learned trial Court has acquitted the respondent/accused from the offences punishable under Sections 279, 337 and 427 of the Indian Penal Code and under Section 184 of the Motor Vehicle Act 1989.

2. According to the prosecution, the respondent/accused himself intimated P.S.O. Shri. D. S. Thakur, i.e. Police Head Constable Batch No. 757 of Dhule Police Station that when he was proceeding towards village Chaugاون at about 7.40 hours, one person got down from the mini-door vehicle and at the relevant time the respondent/accused while driving his S.T. Bus gave dashed to him. Accordingly, after investigation the offence was registered against the respondent/accused. The learned trial Court, after conducting the trial, acquitted the respondent/accused and hence this appeal.

3. The learned A.P.P. strongly argued that the learned trial Court did not consider the evidence in proper manner and wrongly acquitted the present respondent/accused. On the contrary, the learned counsel for the respondent/accused submits that there is no trustworthy and reliable evidence on record in respect of the guilt of respondent/accused. As such, he supported the impugned judgment .

4. Heard rival submissions and also perused the documents on record along with the impugned judgment.

5. Admittedly, the charge sheet was filed against the respondent/accused. However, on going through the evidence on record, it is clearly evident that P.W. No.1 Vitthal, who was the spot panch, has not supported the prosecution case. According to him, he never went to the spot of accident, but spot panchnama was prepared in police station itself. Even the injured Santosh, had failed to adduce reliable evidence. The prosecution is claiming that, accident took place on 07.05.2004 and on the same day, police recorded statement of injured Santosh in Civil Hospital Dhule. However, Santosh himself stated that he had lost consciousness for about five to six days from the day of accident and after regaining consciousness, police recorded his statement. He claims that his statement was also not read over to him. Thus, the evidence of injured Santosh is not trustworthy. Further, eyewitness Madhukar though deposed that he saw one S.T. Bus giving dash to Santosh, but while giving evidence before the Court, he stated that, he came to know about the accident from the people passing on the road. As such, the eyewitness of the accident has also not supported the prosecution case. Further, it is important to note that, to prove the ingredients of Section 337 of the Indian Penal Code, there is no medical evidence on record. No MLC of injured Santosh is filed on

record. The evidence of prosecution witnesses is definitely contradictory and suffers from latches. Further, no technical witness has been examined to ascertain whether any loss was caused to the S.T. Bus involved in the accident. Nobody is saying that the respondent/accused was driving the S.T. Bus in his possession in rash and negligent manner. Thus, considering all these aspects, the acquittal recorded by the learned trial Court against the respondent/accused is absolutely correct and therefore, no interference in the appeal is required. Accordingly, the appeal stands dismissed.

(SANDIPKUMAR C. MORE, J.)

Y.S. Kulkarni