



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

CRIMINAL REVISION APPLICATION NO. 140 OF 2022

Sk. Ajar Taj Mohammad Regiwale
Aged about 34 years, Occ. Labour,
R/o. Near Babaji math Gawalipura,
Akola, Tah. & Dist. Akola

}

... Applicant

Versus

State of Maharashtra,
Through its Police Officer,
Police Station Ramdaspath,
Akola, Tah. & Dist. Akola

}

... Non-applicant

Ms. Poonam Pisurde, Advocate h/f Mr. S.V. Sirpurkar, Advocate for applicant.
Mr. Piyush Pendke, APP for non-applicant/State.

CORAM : RAJNISH R. VYAS, J.
DATE : 20.09.2025

ORAL JUDGMENT:

Heard. **Admit.** Heard finally with the consent of both
learned counsel for the parties.

(2) The applicant is the original accused, who has been convicted for the commission of offence punishable under Sections 279 and 304-A of the Indian Penal Code and was directed to suffer rigorous imprisonment for three months so also to pay fine of Rs.1,000/-, as well as

rigorous imprisonment of six months and fine of Rs.30,000/- respectively. The default sentence is also imposed upon.

(3) Learned Judicial Magistrate First Class, Court No.4, Akola, directed to pay the compensation of Rs.25,000/- to the informant out of the fine amount in Summary Criminal Case No.2477/2016. The said judgment of conviction was challenged by filing Criminal Appeal No.32/2019. However, learned Additional Sessions Judge, Akola, on consideration of evidence, dismissed the said appeal vide judgment dated 18.06.2022.

(4) I have heard Ms. Poonam Pisurde, learned counsel for applicant and Mr. Piyush Pendke, learned Assistant Public Prosecutor for the non-applicant/State. Perused the record and proceedings.

(5) It is the case of learned counsel for the applicant that, considering the evidence on record it cannot be said that it was the applicant, who committed the offence as identification of the applicant as a driver of the vehicle is not proved beyond reasonable doubt. According to her, the evidence of PW-1-Ashwin, who is the son of deceased Savita, is a hearsay evidence and therefore, same cannot be relied upon.

(6) So far as PW-2-Rajesh is concerned, this witness has stated that on the day of incident i.e. on 08.04.2016, he saw deceased returning towards her house at that time the accused came from backside and gave dash to deceased by his Hero Honda Passaion vehicle. He deposed that registration number as MH 30 Z 438. It is the case of the learned counsel for the applicant that in cross-examination this witness has admitted that though he had seen the incident, he did not make any attempt to report the same to the police authorities. He also showed his ignorance as to why different registration number of vehicle was mentioned in his statement.

(7) So far as PW-3-Madan is concerned, he was witness to seizure of vehicle, who turned hostile. PW-4-Chandrashekhar was panch witness to the spot panchnama who also did not support the case of prosecution. So far as PW-5-Ravi is concerned, he stated that on 08.04.2016, in between 06:15 a.m. to 06:30 a.m. in the morning, when he was doing cleaning work in the temple, at that time, the accused drove his vehicle in high speed and gave dash to his relative 'Akka'. Thereafter, he immediately took help of auto ricksahw driver and took injured to the hospital. He stated the vehicle number to the police Z 438. This witness though stated that he has seen the incident and took injured to the hospital but in cross-examination, he has admitted that he did not lodge report in eight days also. Had this witness

being really witness to the incident, in which injury was caused to his relative 'Akka', he would have lodged report to the police station immediately. PW-6-Omprakash has also narrated the incident as narrated by PW-5. He stated that since incident had taken place long back, he could not say whether accused is present in the Court or not. In cross-examination, he stated that he did not give report of incident and registration number to the police.

(8) PW-7-Pramod is a Doctor, who examined the injured. Also PW-8-Nikhil has conducted the postmortem. PW-9-Deepak is the Investigating Officer has deposed about the investigation. He has admitted that vehicle in question was seized from brother of applicant. Statement of the said witness is not examined. In the aforesaid background, learned counsel for the applicant submits that appreciation of evidence by the Courts below is not proper and consequently perverse findings are given.

(9) Per contra, learned Assistant Public Prosecutor had supported the case of the prosecution and argued that since concurrent findings are recorded, this Court may not interfere with the judgment of the Courts below.

(10) I have gone through the record of the case, PW-1 is the

son of deceased. He is not eyewitness to the incident. PW-2, though claims to be the eyewitness, deposed incorrect vehicle number and has not given any explanation for not informing police immediately, though injured was known to him. Though the said witness deposed that injured Savita was known to him, he did not lodge report immediately on the date of incident i.e. 08.04.2016 but First Information Report was lodged on 16.04.2016 by PW-1. It does not appear that person knowing would not disclose the fact of serious accident either to the police authorities or give detailed information to the relatives of injured. This witness, therefore, should not have been believed upon.

(11) So far as PW-5 is concerned, even according to him, injured was his sister 'Akka', but he also did not lodge report immediately. Incident dated 08.04.2016 was reported to the police on 16.04.2016. So far as PW-6 is concerned, he could not identify the applicant/accused in the Court and therefore, his testimony cannot be relied upon.

(12) Undisputedly, the Medical Officers have supported the case of the prosecution. It is not even disputed by the counsel for the applicant that the victim succumbed to the injuries due to accident only. No doubt accident has been proved by the prosecution but question is whether it

was the present applicant who was involved in the crime? Though the Courts below have convicted the applicant but it was done by giving perverse finding.

(13) Be that as it may, this Court vide its order dated 24.02.2025 had called for the report of Probation Officer, Akola. Today the said report is produced before the Court in sealed envelope. The envelope was opened in the Court and the report is taken on record and is marked as document 'X' for identification. The report though shows that accused is short-temper but points out that he has no criminal antecedents and he fears the law. It is also mentioned in the probation report that the behaviour of the applicant is proper. The Probation Officer has opined that if opportunity is given to the applicant there is every likelihood that he would reform himself.

(14) Be that as it may, since the prosecution has not proved the case beyond the reasonable doubt and appreciation of evidence is improperly done by the Courts below, I have no option but to allow the revision application. Hence, the following order:

ORDER

1. The criminal application is allowed.
2. The judgment of the conviction dated 11.02.02019 passed by the Judicial Magistrate First Class, Akola in SCC No.2477/2016 and the

Judgment dated 18.06.2022 passed by the Additional Sessions Judge, Akola in Criminal Appeal No.32/2019 are set aside.

3. The applicant is acquitted of the offence punishable under Sections 279 and 304-A of the Indian Penal Code.

4. Bail bond of the accused stands canceled.

(15) The criminal revision application stands disposed of accordingly. Pending applications, if any, also stand disposed of.

[RAJNISH R. VYAS, J.]

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