IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL APPLICATION (MAIN) NO.36 OF 2026

STATE OF GOA ...APPLICANT

Versus.

MR. SHASHANK KADAM ... RESPONDENT

Mr. Somnath Karpe. Additional Public Prosecutor for the Applicant with Ms. Samiksha Vaigankar, Advocate.

Mr. Pavithran A.V. with Mr. Prasad Kholkar, Advocates for the Respondent.

CORAM: ASHWIN D. BHOBE, J.

DATED : 2nd November, 2026.

P.C.:-

1. Heard Mr Somnath Karpe, Additional Public Prosecutor for the Applicant-State and Mr Pavithran A.V., Advocate for the Respondent.

2. By this Application filed under Section 419 (4) of the BNSS 2023, the Applicant seeks leave to appeal against the Judgment and Order dated 30.11.2024 passed by the Session Judge, North Goa ("Appellate Court"), in Criminal Appeal No. 173 of 2024 ("impugned Judgment").

3. In brief, the Prosecution case is that on 25.03.2019 at 10.15 hours at Sarmanas Junction, Pilgao Bicholim, Goa, the Respondent-Accused, while on his motorcycle, dashed a motor vehicle "Wagon R" bearing No.

GA-03-P-0580, resulting in injuries to the driver of the "Wagon R".

4. The Judicial Magistrate First Class, Bicholim ("Trial Court"), vide Judgment and Order dated 16.04.2024 passed in Criminal Case No. IPC/39/2019/A, convicted the Respondent for offences punishable under Sections 279 and 337 of the IPC and sentenced the Respondent to undergo simple imprisonment for a period of one month and to pay a fine of Rs.1000/- for the offence punishable under Section 279 of the IPC and to undergo simple imprisonment for a period of 15 days and to pay a fine of Rs.500/- for the offence punishable under Section 337 of the IPC.

5. Aggrieved by the Judgment and Order dated 16.04.2025 passed in Criminal Case No.IPC/39/2019/A, the Respondent filed an appeal before the Appellate Court, registered as Criminal Appeal No. 173 of 2024. By the impugned Judgment, the Appellate Court allowed the appeal and set aside the Respondent's conviction.

6. Mr. S. Karpe, learned Additional Public Prosecutor, submits that the observations and findings of the trial Court suffer from perversity. He submits that the trial Court disbelieved the witness on untenable legal grounds. He submits that the appreciation of the evidence on record by the trial Court was proper and well reasoned and as such, no interference was warranted in the Criminal Appeal No.173 of 2024 by the Appellate Court.

7. Mr. Pavithran A.V., learned Advocate for the Respondent submits

that the incident of 23.03.2019 was in fact an accident. To elaborate, he submits that on account of the said accident by the Respondent, he himself suffered grievous injuries which have led to a 50% permanent disability. He submits that the appreciation of the evidence by the Appellate Court cannot be said to be faulty as the Appellate Court has considered the material on record and has taken a view in favour of the Respondent-Accused. He therefore submits that this Application be dismissed.

8. Perused the record.

9. The record placed in the file reveals that the incident of 25.03.2019 appears to be an "accident" as submitted by Mr Pavithran A.V., learned Advocate. The scene of offence panchanama and the material on record create doubt as to whose instance the accident occurred. Rashness and negligence on the part of the Respondent is not established from the evidence led by the prosecution.

10. The Respondent is said to have suffered grievous injuries arising out of the accident, with 50% permanent disability.

11. The impugned judgment discloses that the Appellate Court evaluated the material on record and on appreciation of the same, concluded that the prosecution failed to prove the case against the Respondent beyond reasonable doubt. I do not find any perversity in the overall view taken by the Appellate Court in appreciating the material.

12. It is settled law that if two views are possible on the evidence adduced

in the case, one pointing to the guilt of the accused and the other to his innocence, the view favourable to the accused should be adopted. A useful reference is the pronouncement of the Hon'ble Supreme Court in the cases of *Bhagwan Singh and others Vs. State of M. P.*[1], *Tulasareddi v. State of Karnataka*[2], *Babu Sahebagouda Rudragoudar v. State of Karnataka*[3], and *Mallappa v. State of Karnataka*[4].

13. In view of the above, I do not find any merit in this Application and therefore this Application is rejected.

14. Consequently, Criminal Application (Main) No.36 of 2026 stands dismissed.

ASHWIN D. BHOBE, J.

[1] (2002)4 SCC 85
[2] 2026 SCC OnLine SC 89
[3] (2024) 8 SCC 149
[4] (2024) 3 SCC 544

Signed by: MEENA VISHAL BHOIR
Designation: Private Secretary
Date: 04/11/2026 19:00:53