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IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL REVISION APPLICATION NO.46 OF 2015

Mr. John Rodrigues,
son of Mr. Mariano Rodrigues,
aged 39 years, driver,
r/o H. No.570,
Neura Mandur,
Tiswadi, Goa ….. Applicant.

V/s

1. State
Through Public Prosecutor,
Panaji-Goa

2. Police Inspector
Vasco Police Station,
Vasco-Goa. …. Respondents

Mr Vedraj Toraskar, Advocate for the Applicant.
Mr Pravin Faldessai, Addl. Public Prosecutor along with Ms Swizel Falcao, Advocate for the Respondents.

CORAM: AMIT S. JAMSANDEKAR, J.

RESERVED ON: 30th October, 2026

PRONOUNCED ON:- 5th November, 2026.

ORDER

1. By the present Criminal Revision Application, the Applicant seeks to challenge the impugned judgment and order dated 23.04.2015,

passed by the learned Sessions Judge, Margao, Goa (hereinafter referred to as "the Sessions Judge"), in Criminal Appeal No. 78/2014, whereby the judgment and order dated 27.05.2014, passed by the learned Judicial Magistrate First Class, Vasco (hereinafter referred to as "the JMFC"), in Criminal Case No. 8/S/2014/C, convicting the Applicant for offences punishable under Sections 79, 337 and 304-A of the Indian Penal Code, 1860 (hereinafter referred to as "the IPC"), came to be challenged.

2. Heard Mr. Toraskar learned counsel for the Applicant and Mr. Faldessai, learned Addl. Public Prosecutor for the Respondents.

3. Mr. Toraskar, the learned counsel for the Applicant, narrated the facts leading up to and in support of the present Revision Application, which are as follows:-

a. On 10.02.2012, the Applicant was driving a bus bearing Registration No. GA-01-T-6563. The Bus was proceeding from Verna to Dabolim Airport, and, upon reaching near Floffy Bar at Alto- Dabolim, Goa, at around 5.15 am, it collided with the four-wheeler Wagon-R car bearing registration No.: GA-07-E-3595 and Innova Car bearing No.: GA-01-T-7166, which were parked/ stationed near the divider with their parking lights on. As a result, one of the victims, namely Mr. Kishan Borkar, succumbed to injuries and the other two were injured.

b. The said road accident occurred within the jurisdiction of Vasco Police Station. Consequently, FIR bearing No.36/2012 was registered against the Applicant on 10.02.2012 for offences punishable under Sections 279, 337 and 304(A) of the IPC.

Thereafter, the Applicant was charge-sheeted for the aforementioned offences on 25.01.2014.

c. In the Criminal Case No. 8/S/2014/C before the JMFC, the Applicant pleaded not guilty. During the trial, the prosecution examined ten witnesses. By Judgement and Order dated 27.05.2014, the JMFC held the Applicant guilty of offences punishable under Sections 279, 337 and 304(A) of the IPC and sentenced him to undergo simple imprisonment for a period of 6 months and pay a fine of Rs.1500/-.

d. Aggrieved by the Judgement and order passed by the JMFC, the Applicant preferred Criminal Appeal bearing No.78/2014 before the learned Judge. By the Judgement and Order dated 23.04.2015, the learned Judge dismissed the appeal preferred by the Applicant and upheld the Judgement and order passed by the JMFC.

e. The Applicant has therefore preferred the present Application, challenging orders passed by both the courts below.

4. In the background of the aforesaid facts, Mr. Toraskar, the learned counsel for the Applicant, submitted that ten witnesses were examined by the prosecution but not a single one of them was an eyewitness, and none of them had actually witnessed the incident alleged to be committed by the Applicant. He further submitted that the JMFC and the Judge did not consider the evidentiary value of the spot Panchanama as PW-4(Venkat Prasad Patnam – Police Constable attached to Vasco Police Station) had first explained the alleged incident to both the panch witnesses, which was then reiterated by the panchas in the Panchnama. Further, admittedly, the signatures of the panch witnesses were taken at

Vasco Police Station and not at the spot of the incident. The Judge dismissed the Appeal preferred by the Applicant merely on surmise and conjectures when the evidence on record is clearly contrary. The Judge ought to have considered that the two vehicles stationed/ parked on the wrong side added peril and caused the alleged accident. Further, Mr. Toraskar submitted that there is no evidence on record even to remotely establish that the Applicant was driving his bus in a rash and negligent manner. The two vehicles were parked/stationed on the right-hand side close to the divider of the highway. The Applicant was driving his bus at a reasonable speed. The sketch of the spot clearly reveals that the highway at the spot of the incident had a curve and the two vehicles were parked/stationed immediately after that curve. Mr. Toraskar submitted that the JMFC and the Judge at the Appeal stage completely overlooked these crucial facts and evidence on record. He further submitted that the entire trial and the appeal proceedings, therefore, have resulted in gross injustice to the Applicant. Therefore, this is fit case for this Court to interfere in the revisional jurisdiction under Section 442 of the BNSS.

5. Mr. Faldessai, learned counsel for the Respondent, submitted that there are concurrent findings against the Applicant, and both the courts below have rightly convicted the Applicant; therefore, interference with the impugned judgments and orders is not warranted. He submitted that the learned Judge at the appeal stage has already considered all the submissions made by the Applicant in this application. He further submitted that the jurisdiction of this Court in revision is extremely narrow and this is not a fit case to exercise jurisdiction under Section 442 of the BNSS.

6. I have heard the learned counsel for the parties and perused the record.

7. It is borne out from the record that none of the witnesses examined by the prosecution was eyewitnesses. Further, both the courts below have erroneously appreciated the evidence on record in the form of the Panchanama and the sketch, which were not signed at the spot of the incident but at the Police Station. PW-5 (Simon Pinto – panch witness) had categorically stated in his cross-examination that he had signed the Panchanama and the sketch at the Police Station. In view of the aforesaid, the JMFC and the learned Judge erred in appreciating the Panchanama and the sketch.

8. Furthermore, there is no evidence on record to establish that the Applicant was asleep while driving the bus. There is no evidence on record that establishes that the Applicant was driving in a rash and negligent manner.

9. It is also necessary to consider that both cars involved in the accident were stationed/parked on the right-hand side of the Highway, alongside the divider, which had a natural curve. In view of the aforesaid circumstances, the Applicant cannot be held responsible for the unfortunate incident, especially when there is no evidence on record to establish that the Applicant was driving rashly and negligently. The JMFC and the Judge did not consider these crucial facts and evidence while appreciating the evidence.

10. Overall, the evidence on record does not establish that the prosecution has proved the essential ingredients of offences under Sections 79, 337 and 304(A) of the IPC. I agree with Mr. Toraskar

that not appreciating the crucial evidence by the JMFC and the Judge has resulted in gross injustice to the Applicant. Therefore, this is a fit case for invoking the revisional powers of this Court under Section 442 of the BNSS.

11. Therefore, the Revision Application is allowed in terms of Prayer clause (1):-

> *"1) The petition be allowed and the impugned judgment and order dated 23.04.2015 on the file of Additional Sessions Judge, South Goa at Margao in Criminal Appeal No. 78/14 be quashed and set aside and the accused be acquitted of the offences charged in Criminal Case No. 8/S/2014/C."*

12. The Application is disposed of in the above terms.

13. No order as to Costs.

14. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR, J.]

Signed by: VINITA VIKAS NAIK
Designation: Private Secretary
Date: 06/11/2026 10:22:27