

N.S.Kamble

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

CRIMINAL REVISION APPLICATION NO. 655 OF 2024

Rajesh Rajkumar Nagpal

... Applicant

Versus

The State Of Maharashtra

... Respondents

**NILAM
SANTOSH
KAMBLE**

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Dr.Yusuf Iqbal Yusuf Jain Shroff & Mustafa Chitalwala, for the Applicant.

Ms.Kranti Hiwrale, APP for Respondent-State.

Ms.Manan Sanghai a/w Mr.Paarth Singh and Ms.Paavni Chedha, for Respondent No.2.

Mr.Dinesh Palav, PSI, Marine Drive Police Station.

CORAM : SHIVKUMAR DIGE, J.

DATE : 18th MARCH 2026

P.C. :

1. The present Revision Application challenges an order dated 9th October 2024 passed by the learned Additional Sessions Judge, discharging the Respondent No.2 from the offence under Section 304 Part-II of the Indian Penal Code, 1860 ('IPC' for short).

2. It is prosecution's case that on 12th May 2020, the Respondent No.2 drove the car in rash and negligent manner, and collided with stationary bus, thereby causing death of son of the Applicant who was occupant of the Applicant's car. It is alleged that, at the time of accident, the Respondent No.2 was not holding a valid driving license and was

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driving the vehicle in violation of the restrictions imposed during the Covid-19 lock down.

3. It is contention of learned counsel for the Applicant that at the time of the accident, the Respondent No.2 was not having valid driving license. He drove the car in high and excessive speed. He had knowledge that if he drove the car in high speed, accident may occur. There were restriction to drive vehicles on road. He gave dash to a stationary bus. No documents produced on record to show that whether Respondent No.2 had knowledge about driving the vehicle or not. Initially, the charge-sheet was filed under Sections 279, 338, 304A of IPC along with Section 184 of the Motor Vehicle Act ('M.V.Act' for short). Later on, Section 304 Part-II of IPC was added. The Application was filed by the Respondent No.2 seeking discharge from all charges. The learned Additional Sessions Judge has discharged the Applicant from charge under Section 304 Part-II of IPC, which is erroneous. The death of deceased has been caused due to rash and negligent driving of the Applicant, but these facts are not considered by the learned Additional Sessions Judge while discharging the Respondent No.2 and requested to allow the Application.

4. The learned counsel for the Applicant relied on:-

- (i) Alister Anthony Pareira V/s. State of Maharashtra (2012) 2 SCC 648.
- (ii) State Tr. P.S. Lodhi Colony, New Delhi V/s.Sanjeev Nanda (Criminal Appeal No.1168 of 2012).

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(iii) Balachandra Waman Pathe V/s. The State of Maharashtra (1967 SCC Online SC 26).

5. It is contention learned counsel for Respondent No.2 that the accident was caused due to rash and negligent driving of the Respondent No.2 and not, as culpable homicide not amounting to murder, as there was neither intention nor knowledge that the act was likely to cause death. The learned counsel further submitted that accident happened due to dash given to a stationary bus, hence it cannot be assumed that Respondent No.2 had knowledge that such collision was likely to occur. The Respondent No.2 himself had sustained serious injuries which shows absence of any intentional or knowingly dangerous conduct. The case does not show any serious factors, like intoxication or deliberate endangerment. The learned Additional Sessions Judge has passed well reasoned order, no interference is required in it and requested to reject the Application.

6. It is contention of learned APP that Respondent No.2 was driving the vehicle in a rash and negligent manner, in high speed, and in reckless and careless way without having a valid driving license. It is submitted that driving at high speed without license or proper training on a public road is inherently dangerous and likely to result in death, and Respondent No.2 was aware about it. The learned APP supported the contention of the learned counsel for the Applicant.

7. I have heard all learned counsel. Perused impugned orders.

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8. While discharging the Respondent No.2 from the offence under Section 304 Part-II of IPC, the learned Additional Sessions Judge has observed that no knowledge as contemplated under Section 299 or 304 Part-II of IPC can be attracted to the Respondent No.2 in commission of present offence.

9. It appears from the documents produced on record that the Respondent No.2 and Applicant's son were travelling together in a car towards their home, while their other friends were travelling in other cars. During the course of journey, the accident occurred. It appears from record that Respondent No.2 had come at the Jaihind College in car from his home i.e. Nepeansea Road, which shows that he possessed basic driving skill.

10. Section 299 of IPC reads thus :

"299. Culpable homicide.—Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

11. Section 304 of IPC reads thus:- *Punishment for culpable homicide not amounting to murder.—*

Whoever commits culpable homicide not amounting to murder shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of

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causing death, or of causing such bodily injury as is likely to cause death,

or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death

12. The cumulative reading of these Sections denotes that Section 304 Part-II of the IPC is distinct from the offence under Section 300 i.e. murder, and contemplates cases where death is caused without the requisite intention for murder, but with knowledge, as specified therein. The question that arises is whether Respondent No.2 had knowledge at the time of accident. In my view, Respondent No.2 was driving the vehicle along with the deceased and suddenly his car collided with a stationary bus. The circumstances indicate that incident was accidental in nature and attributed to a negligent act. It cannot be said that Respondent No.2 had knowledge that his act was likely to cause death or grievous injury to his companion. The incident occurred suddenly and in the said incident, the Respondent No.2 also sustained serious injuries. The documents produced on record does not attribute that Respondent No.2 had knowledge that the accident would result in fatal consequences. The Respondent No.2 has been charged for driving vehicle without license and for rash and negligent driving causing death of others.

13. As observed above, to attract Section 304 Part-II, the Accused

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must have the knowledge that the act is likely to cause death. The documents produced on record indicate that the Respondent No.2 possessed basic driving skill, (having driven from home to college) and that the collision with the stationary bus was sudden. The circumstances suggests that the incident was accidental and attributed to a negligent act rather than a criminal intent to cause fatal consequences.

14. I have gone through the case laws cited by the learned counsel for the Applicant, the facts of cited cases and present case are different, hence not applicable.

15. In view of above, I pass following order.

ORDER

- (i) The Application is rejected.
- (ii) All pending Applications are disposed of.

(SHIVKUMAR DIGE, J.)