

IN THE HIGH COURT OF BOMBAY AT GOA.

CRIMINAL MISCELLANEOUS APPLICATION NO. 79 OF 2003.

State through Public
Prosecutor, Panaji.

... Applicant.

Versus

Venkatesh Halarnkar,
r/o House No. 227/3,
Palmar, Pomburpa.

... Respondent.

Mr. S.N. Sardessai, Public Prosecutor for the
State Applicant.

Coram : P.V. HARDAS, J.

Date : 24th April 2003.

ORAL ORDER.

The State, being aggrieved by the Judgment of the Judicial Magistrate, First Class, Mapusa, dated 18th December 2002, in Criminal Case No. 246/2001/F, acquitting the respondent/accused for offences punishable under Sections 279 and 337 of the Indian Penal Code, has filed the present application for leave to appeal.

2. The learned trial Court while acquitting the respondent/accused, after appreciation of the evidence, had come to the conclusion that the prosecution had not been able to establish that the vehicle was driven by the respondent/accused in a rash and negligent manner so as to endanger human life or was likely to cause hurt or injury. The learned trial Court has recorded a finding that the accident occurred as a result of error of

judgment. The learned trial Court also recorded a finding that merely on the basis of the vehicle being driven at a high speed, an inference regarding the rashness or negligence could not be drawn. The learned trial Court has also appreciated that the accident occurred at the intersection point and the vehicle could not have been at a very high speed as compared to the speed of a vehicle on a straight road.

3. I have heard Mr. Sardessai, learned Public Prosecutor appearing on behalf of the applicant State. I have perused the Judgment of the learned trial Court. The learned trial Court has appreciated the evidence and has arrived at a finding, which, on the face of the record, is justified and needs no interference. According to me, this is not a fit case for granting leave to appeal. Hence, leave refused. Criminal Miscellaneous Application is, accordingly, dismissed.

(P.V. HARDAS)
JUDGE.

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