

State of Maharashtra

Vs

Vijay Sadanand Shenoy

Criminal Appeal No. 344 of 1975

(A.D. Koshal, V.B. Eradi, R.B. Misra JJ)

30.01.1981

JUDGMENT

KOSHAL, J. –

1. This is an appeal by special leave against the judgment of the High Court of Bombay acquitting the respondent of an offence under Section 304-A of the Indian Penal Code of which he had been convicted by the Presidency Magistrate, 25th Court, Mazgaon, Bombay and sentenced in consequence to rigorous imprisonment for nine months as well as a fine of Rs. 2000, the sentence in default of payment of fine being rigorous imprisonment for three months.

2. In brief the prosecution case was to the effect that one Dhanpal who had crossed half the width of a 50 feet wide road and had then become stationary in order to let the vehicular traffic pass before he crossed over, was suddenly hit by the motor-cycle which the respondent was riding while trying to overtake a bus. The result of the impact, according to the prosecution, was that Dhanpal was dashed to the ground and was run over by the bus between which and the deceased there was a distance of only 4 to 5 feet.

3. The facts found by the High Court are that the deceased suddenly took a step backward and it was then that the fatal impact came about. The High Court had found further that in this situation, the respondent was not to blame as he could well have by-passed both the bus and the deceased, had the latter not taken the fatal erratic step.

4. After hearing Mr. Sachthey for the State at great length, we find ourselves completely in agreement with the High Court in the view of the evidence that it has taken in a very well-reasoned judgment. We are at one with it in holding that no rash or negligent act has been brought home to the respondent. The appeal accordingly fails and is dismissed.

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