IN THE HIGH COURT OF JUDICATURE AT BOMBAY NAGPUR BENCH, NAGPUR

CRIMINAL REVISION APPLICATION NO.103 OF 2011.

Mohammad Arif S/o Mohammad Sharif, aged about 22 years, Occ-Driver, R/o-Patanbori, Taluka-Kelapur, District Yavatmal.

... Applicant.

..Vrs..

The State of Maharashtra,
Through P.S.O. Pandharkawda,
Taluka-Kelapur, District Yavatmal.

... Non applicant.

\$-0-0-\$\$ (Mr.S.Raisuddin,Advocate for the applicant. Mr.P.V.Bhoyar,APP for the respondent-sole.) <math display="inline">\$-0-0-\$

CORAM : A.H.JOSHI,J.

DATE: NOVEMBER 29,2011.

(ORAL JUDGMENT)

- 01) Heard learned Advocate Mr.S.Raisuddin, for the revisioner-petitioner.
- 02) Perused the record.
- 03) The applicant was charged for the commission of offence of causing injury by driving the motor vehicle rash and negligently and in such manner that it will endanger the life.
- 04) The prosecution has examined five witnesses. PW-5 is of panch witness. PW-1 is the injured and others are examined as eye

witnesses.

- 05) Perusal of testimony of the PW-1 to PW-4 reveals that prosecution witness nos.1 to 3 all did not witness the incident and did not depose even one word in relation to negligent driving much less in such manner that it would endanger the life of the victim.
- 06) PW-4 is the only witness who claims to have witnessed the incident and says vehicle was being driven rashly.
- O7) Considering the testimony of PW-4, and believing that it contain truth and truth alone, even then the driving rashly and negligently to such extent and in the manner that it would endanger to life is not stated, much less proved.
- 08) Fact and nature of injury is not proved, as medical evidence is not tendered.
- 09) In the result, the conviction is supported by surmises than on evidence. Hence, the conviction cannot be sustained.
- 10) Therefore, this revision application is allowed.
- 11) The Judgment and order of sentence is set aside. The appellant is acquitted of the charge.
- 12) Amount of fine, if paid, be refunded. Bail bonds stand cancelled.

JUDGE