

State Of Maharashtra vs Vijay Sadanand Shenoy on 30 January, 1981

Equivalent citations: 1981(1)SCALE830, (1981)3SCC524, 1981(13)UJ268(SC), AIRONLINE 1981 SC 3, 1982 (2) SCC 457, 1981 (3) SCC 524, 1982 ALL CJ 496.2, (2009) 2 SCT 244, (2009) 3 SERVLR 646

Bench: A.D. Koshal, V. B. Eradi

JUDGMENT

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 9 months as well as a fine of Rs. 2,000/-, the sentence in default of payment of fine being rigorous imprisonment for 3 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 before the impact.

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 has 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.