

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

CRIMINAL APPEAL NO. 532 OF 1996

The State of Maharashtra

...Appellant

VERSUS

1] Devidas Bhimrao Nannaware,
age 37yrs., occ. Agril.,
R/o Hangarga, Tq. Tuljapur,
District Osmanabad,

2] Chayabai Devidas Nannaware,
age 37 years, occ. Household,
R/o Hangarga, Tq. Tuljapur,
District Osmanabad

...Respondents

.....
Shri B.L.Dhas, advocate for appellant/State

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CORAM : A.B.CHAUDHARI & INDIRA K.JAIN, JJ.
DATED : 1st OCTOBER, 2015

ORAL JUDGMENT (Per A.B.Chaudhari, J.)

1] Being aggrieved by the judgment and order, dated 7.8.1996, passed by the learned 2nd Additional Sessions Judge, Osmanabad in Criminal Appeal No. 40 of 1994, by which the learned appellate Judge set aside the conviction for the offences under Sections 323, 504 r/w 34 of the Indian Penal Code and held him guilty for the offence under Section 326 r/w 34 of the Indian Penal Code, but sentenced accused no.1 to suffer simple imprisonment for one month and accused no.2 to pay fine of Rs.500/-, the present appeal was filed by the State for enhancement of the sentence.

2] Learned A.P.P. for the State vehemently contended that the learned lower appellate court committed error in law in awarding sentence having found the accused persons guilty of serious offence under Section 323 r/w 34 of the Indian Penal Code. He submitted that the sentence is, therefore, required to be enhanced.

3] None appears for the respondents.

4] We have perused the judgment of the appellate court, so also the injury certificate. The injury certificate shows that all the injuries to the victim were simple injuries. The injuries being simple, in fact, we find that the finding of conviction under Section 326 of the Indian Penal Code is unsustainable, but the appeal is only for enhancement of sentence. We, however, find that the sentence that is awarded cannot be said to be lesser looking to the nature of injuries from the injury certificate.

5] It appears that Criminal Revision preferred by the accused against their conviction and sentence awarded by the appellate court was also dismissed by this court.

6] In that view of the matter, we do not think that any interference is required to be made at the behest of the State, which is asking for enhancement of the sentence, looking to the nature of injury as simple as revealed from the injury certificate.

7] In the result, Criminal Appeal No. 532 of 1996 is dismissed.

[INDIRA K.JAIN, J.]

[A.B.CHAUDHARI, J.]

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