

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL REVISION APPLICATION NO. 93 OF 2015

1 Chandrakant Sampat Matekar)

2 Sudarshan Sampat Matekar)

Both residing at Jadhav Galli

Islampur, Taluka Walva,)

District Sangli)

At present accused are in Sangli

Central Prison, Sangli.)

.. Applicants

(Org. Accused Nos.1 & 2).

Versus

The State of Maharashtra

.. Respondent

Mr. Aditya S. Desai, Advocate for the applicants

Smt. A. A. Mane, APP for the respondent-State.

CORAM:-M.L. TAHALIYANI,J.

DATED : -12/03/2015

ORAL JUDGMENT:

Not on board. Taken on board on being mentioned for
production on the ground of urgency.

2 Admitted. Respondents waive service. By
consent of the parties taken up forthwith for final hearing.

3 Heard the learned counsel for the applicants and
learned APP for the respondent-State.

4 The applicants have been convicted for the offence
punishable u/s 323 r/w 34 of IPC and u/s 325 r/w 34 of IPC.
They are also convicted for the offence punishable u/s 504 r/w
34 of IPC. The maximum punishment imposed on them is for
the offence punishable u/s 325 r/w 34 of IPC. They are
sentenced to suffer RI for six months each and to pay a fine of
Rs.500/- each.

5 I have gone through the judgment. It appears that
the dispute is regarding agricultural land. There was no pre-
meditation and there was no intention to cause any major harm
to the injured. Since the dispute has taken place in the
agricultural land due to a dispute over property and civil suit is
already pending, it was just and proper that the Magistrate
should have exercised his powers u/s 4 of the Probation of
Offenders Act.

6 In my opinion, the sentence imposed by the Magistrate is too harsh to be sustained. At this stage, it is brought to my notice that the applicants are in jail since 21st of February, 2015. As such they will be completing about one month imprisonment within few days. Considering the facts of the case and the circumstances, in which the incident had occurred, as stated earlier, the exercise of powers under the Probation of Offenders Act would have been the better option. The learned Magistrate has not given any sound reason as to why he was so harsh in punishing the applicants to the extent of six months. The appellate court has also not given reasons for not exercising powers under the Probation of Offenders Act.

7 Since the applicants have already undergone sentence of about twenty two days and since they have paid the fine amount, I pass the following order:

 The revision application is partly allowed. The conviction of the applicants for the above stated offence is

maintained. As far as the sentence is concerned, it is directed that they shall undergo sentence for the period already undergone by them. The order of the Magistrate and Sessions Judge with regard to the sentence is accordingly modified. Fine has already been paid by the applicants.

This Court does not make any change in the fine sentence.

The applicants be released forthwith from the prison, if not required in any other case.

8 The revision application accordingly stands disposed of.

9 Jail Authorities and the lower Court shall act on the authenticated copy of the judgment.

(JUDGE)

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