

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 339 OF 2015
IN
CRIMINAL REVISION APPLICATION NO. 391 OF 2015

Amit S/o. Rama Zende	...	Applicant
vs.		(Orig. accused)
The State of Maharashtra	...	Respondent

Mr. S.G.Kudle, Advocate, for the applicant.
Ms. G.P.Mulekar, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 28th August, 2015.

P.C.

This is an application under Section 389 of Cr.P.C. The applicant herein is convicted for an offence punishable under Section 420 read with Section 34 of Indian Penal Code in R.C.C. No.350 of 2014 by the Chief Judicial Magistrate, Solapur, vide the judgment and order dated 26.2.2015 and is sentenced to suffer R.I. for three years and six months and fine of Rs.50,000/- in default to suffer S.I. for six months.

2. The applicant herein is arrested on 27.1.2014. and has been in custody since then.
3. Being aggrieved by the judgment and order passed by the

Chief Judicial Magistrate, Solapur, the applicant herein has filed Criminal Appeal No.30 of 2015 before the Sessions Court at Solapur. The learned Sessions Judge, Solapur vide judgment and order dated 31.7.2015 has been pleased to dismiss the appeal. Hence, this Revision Application.

4. From the perusal of the impugned judgment, it appears that the present applicant was seen in the C.C. Footage. He had been with the informant, but had not gone to the locker. It was the defence of the accused that he has been falsely implicated. However, the said defence has not inspired confidence of the Court and he has been convicted. It appears from the record that there is evidence to show that the informant had parted with the articles in favour of the accused. The articles have not been seized.

5. The learned counsel for the applicant submits that in absence of any seizure of articles, the chain would be incomplete and it cannot be said that the present applicant had committed the offence of cheating.

6. It is further contended that the applicant has been in jail for more than 1-1/2 year i.e. he has practically served more than half of the sentence imposed upon him and in view of this fact, this Court is inclined

to suspend the substantive sentence.

ORDER

- (i) The application is allowed.
- (ii) The substantive sentence imposed upon the applicant is hereby suspended. He be enlarged on bail, if not required in any other offence, upon furnishing P.R. Bond in the sum of Rs.25,000/- with one or more local sureties in the like amount.
- (iii) The applicant shall cause his appearance before the Court of Chief Judicial Magistrate, Solapur, once in six months on the date assigned by that Court.
- (iv) Upon failure to attend on any two consecutive dates, the prosecution will be at liberty to seek cancellation of relief granted in this application.

Application is allowed in the above terms and stands disposed of.

(SMT.SADHANA S.JADHAV, J.)