

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRI. REVISION APPLICATION NO. 293 OF 2015

Sachin C. Dharmapurkar & Anr. ... Applicants.

V/s.

The State of Maharashtra ... Respondent.

Mr. Jilajit Sharma, Advocate for the Applicants.

Mr. Rajesh More, APP for the State.

CORAM : M.L.TAHALIYANI,J.

DATE : 14th JULY, 2015

P.C. :

1 Heard the learned counsel appearing for the applicants and the learned additional public prosecutor for the State.

2 The applicants have been convicted for the offence punishable under section 324 read with section 34 of the Indian Penal Code by the learned Metropolitan Magistrate, 29th Court, Dadar, Mumbai. Their appeal has been dismissed.

3 I have gone through the evidence of the prosecution witnesses. It is clear that none of the applicants had used stone which had caused head injury to the complainant. The stone was thrown by one Ajay, who is

accused no.1. The stone was picked up by Ajay during the course of the quarrel. As such it is very difficult to say that the applicants had shared the intention of the accused no.1-Ajay. The applicants could not have been held guilty of the offence punishable under section 324 of the IPC. The applicants, however, had assaulted the complainant by means of fist blows. They could have been convicted of the offence punishable under section 323 of the IPC.

4 In the result, I pass the following order :

- i. The revision application is partly allowed.
- ii. Conviction of the applicants for the offence punishable under section 324 r/w. 34 of the Indian Penal Code is set aside.
- iii. The applicants are found guilty of the offence punishable under section 323 r/w. 34 of the Indian Penal Code.
- iv. The applicants shall be released on probation on execution of personal bond of Rs. 5000/- each on a condition that during the period of one year they will maintain peace and good behaviour and that they will

appear before the trial court or in any other competent court to receive sentence, if they directed to do so.

v. The bonds shall be executed before the trial court.

vi. The applicants shall appear before the trial Magistrate on 28th of July, 2015 by executing bonds.

5 The revision application stands disposed of in the above terms.

The learned Magistrate to act on an authenticated copy of this order duly issued by the Registry.

(JUDGE)

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