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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO. 301 OF 2015
WITH
CRIMINAL APPLICATION NO. 264 OF 2015
IN
CRIMINAL REVISION APPLICATION NO. 301 OF 2015**

Nagnath Jagannath Shinde and Ors. ... Applicants

Versus

The State of Maharashtra Respondent

Mr. Ajay A. Joshi with Mr. S.P. Rajepandhare for the applicants.

Ms. G.P. Mulekar, A.P.P. For the State.

**CORAM : M.L. TAHALIYANI, J.
DATED : JULY 07, 2015**

P.C.

Admit. Heard finally.

2. Heard learned counsel for the applicants and learned A.P.P. For the State.
3. The applicants have been convicted for the offence punishable under section 323 read with 34 of Indian Penal Code. The sentence imposed on the applicants is six months imprisonment and fine of Rs.1,000/- each.
4. The applicants were originally prosecuted for the offences punishable under sections 326, 504, 506 read with 34 of the Indian Penal Code. They are found not guilty of the said offences. In the ultimate conclusion, the Magistrate found them guilty for the offence punishable under section 323 read with 34 of the Indian Penal Code.
5. The appeal filed before the Sessions Court has been dismissed. I

have heard the learned counsel for the applicants. The applicant no.3 has undergone two months imprisonment, applicant no.1 had undergone 1.1/2 months imprisonment and applicant no. 2 has undergone 7 days imprisonment. In my opinion, the learned Magistrate should not have imposed such heavy sentence for the offence punishable under section 323 read with 34 of Indian Penal Code. This aspect has not been considered by the appellate court. Apart from this what is to be noted is that the dispute arose due to canal waters. There was no premeditation. In the circumstances, I pass the following order :

(a) The revision application is partly allowed. The conviction of the applicants for the offence punishable under section 323 read with 34 of the Indian Penal Code is maintained. Sentence part of the order, however, is modified to the extent that the applicants shall undergo simple imprisonment for the period already undergone by them and shall pay fine of Rs. 1000/- each and in default of fine, one week simple imprisonment.

(b) I am told that the fine has already been paid by the applicants. In the circumstances, the applicants who are in prison, shall be released from the prison forthwith, if not required in any other case.

(c) Criminal Application No. 264 of 2015 does not survive in view of the disposal of the revision application. In view of the same, Criminal Application No. 264 of 2015 also stands disposed of.

(JUDGE)