

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 373 OF 2015
IN
CRIMINAL REVISION APPLICATION NO. 416 OF 2015

Parvez Ahmed Momin	...	Applicant
vs.		
Navid Mohammed Hasan Momin & Anr....		Respondents

Mr. M.A.Khan, Advocate for the petitioner.
Mr. Arfan Sait, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 13th October, 2015.

P.C.

The applicant herein was an accused in S.C.C. No.564 of 2009. The learned Judicial Magistrate, First Class, Bhiwandi, by an judgment and order dated 13.3.2013 has been pleased to convict the applicant on an offence punishable under Section 500 of the Indian Penal Code and has sentenced the applicant to suffer simple imprisonment for three months and pay compensation of Rs.15,000/- to the complainant, in default, further S.I. For 20 days.

2. Being aggrieved by the judgment and order passed by the

Judicial Magistrate, First Class, Bhiwandi, the applicant herein has filed Criminal Appeal No.135 of 2013. The learned Addl. Sessions Judge, Thane, vide judgment and order dated 4.9.2015, has been pleased to allow the appeal partly. The conviction of the applicant is upheld, however, the sentence is modified to simple imprisonment for one month instead of three months and compensation has been enhanced to Rs.20,000/- in default S.I. for one month. Hence, this Revision Application.

3. The learned counsel for the applicant, upon instructions, submits that today i.e. 13.10.2015, the applicant has surrendered to the custody of the Judicial Magistrate, First Class, Bhiwandi and hence the learned counsel prays for suspension of the substantive sentence. It is submitted that the applicant was on bail during the pendency of the trial as well as during pendency of the appeal and has not committed breach of any conditions imposed upon him. It is submitted that the order of imposition of fine passed by the Judicial Magistrate, First Class, Bhiwandi, has been complied with. The applicant undertakes to comply with the order dated 4.9.2015 passed by the Addl. Sessions Judge, Thane.

4. Taking into consideration the fact that the sentence imposed

upon the applicant is a short-term sentence and it is not possible to take up the Revision Application for hearing, this Court is inclined to suspend the substantive sentence.

ORDER

- (i) The application is allowed.
 - (ii) The substantive sentence imposed upon the applicant in S.C.C.No.564 of 2009 confirmed in Criminal Appeal No.135 of 2013 is hereby suspended.
 - (iii) The applicant be enlarged on bail. Same bail, fresh bonds, subject to the condition that the fine amount is deposited forthwith.
 - (iv) The applicant shall attend the Court of the Judicial Magistrate First Class, Bhiwandi once in six months on the date scheduled by that Court.
 - (v) In case of failure to attend the said Court on any two consecutive dates, the prosecution shall be at liberty to move for cancellation of bail.
 - (vi) Parties to act on an authenticated copy of this order.
- Application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)