

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL REVISION APPLICATION NO. 381 OF 2014

**WITH
CRIMINAL APPLICATION NO. 325 OF 2014
IN
CRIMINAL REVISION APPLICATION NO. 381 OF 2014**

Sahebrao Pandurang Kaloge .. Applicant

Versus

The State of Maharashtra .. Respondent

Mr. R. N. Gite, Advocate for the applicant
Mrs. A. A. Mane, APP for the respondent-State

CORAM:-M.L. TAHALIYANI,J.
DATED : -10/03/2015

P.C.

Heard the learned counsel for the applicant and
learned APP for the respondent State.

2 The applicant has been convicted by the learned
Magistrate for the offence punishable u/s 353 of IPC and has
been sentenced to suffer simple imprisonment (SI) for a period

of fifteen days and to pay a fine of Rs.2,000/-. In default to suffer SI for one month. His bail application has been dismissed by the appellate Court.

3 I have gone through the order of the trial Court as well as the appellate Court. Even, if the evidence of PW 1, who is a solitary witness to the incident is accepted to be true and correct, the fact remains that the applicant had not gone with any preparation to assault PW 1, who was working as a Clerk in Telephone Exchange. It appears that the applicant became furious because his telephone was not working since last many days and during the course of discussion he had inflicted a slap on cheek of PW 1/complainant.

4 In my opinion, since the applicant is not a habitual offender and he has no history of indulging into such activity, the case is fit for grant of relief u/s 4 of Probation of Offenders Act. The learned Magistrate should have realized that sending such a person to jail for a period of fifteen days also would

have proved to be counter productive. Having regard to the fact that the applicant was furious because of non-functioning of his telephone for a long period and considering the fact that he was not getting positive response from the Telephone Exchange the case was made out for relief u/s 4 of the Probation of Offenders Act.

5 Hence I pass the following Order:

Revision application is partly allowed. The conviction of the applicant for the offence punishable u/s 353 of IPC is maintained.

The sentence imposed on the applicant by the trial Court and confirmed by the appellate Court is set aside.

The applicant shall be released on execution of personal bond of Rs.2000/- for a period of one year with the condition that during the said period of one year, he will maintain peace and good behaviour and will appear before the Court, if called upon to receive the sentence.

6 Criminal Application No. 325 of 2014, does not survive as the revision application has been finally decided.

(JUDGE)

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