

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL SUO MOTO APPLICATION NO. 1 OF 2015
IN
CRIMINAL APPEAL NO. 430 OF 2014

High Court on its own motion. ... Applicant.
Versus
Shahanawaj Shamsuddin Bhadgaonkar & anr. ... Respondents.

Mr. Sudeep Pasbola i/b. Mr. Umar Z. Kazi and Mr. Rahul Arote,
advocate for respondent No. 1.

Mr. Arfan Sait, APP for State.

Mr. M.B. Kadam, API, Mahatma Phule Chowk Police Station, Kalyan.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : DECEMBER 10, 2015

P.C.:

1 On 10/6/2014 Criminal Appeal No. 430 of 2014 was listed before this Court (Coram : Smt. Sadhana S. Jadhav, J) for admission of the appeal. The appellant herein is convicted for offence punishable under Section 376(2)(f) and 506 of the Indian Penal Code. The learned Sessions Judge, Kalyan has sentenced the appellant to suffer R.I. for 5 years. The minimum prescribed punishment for offence punishable under Section 376(2)(f) of the

Indian Penal Code is 7 years. In view of this, this Court had issued notice of enhancement. The learned Counsel for the appellant had waived service for notice of enhancement on 11/8/2014.

2 Today, Criminal Appeal is finally argued in the presence of the appellant who is present before this court. Notice of Enhancement is registered as Criminal Suo Moto Application No. 1 of 2015.

3 Upon perusal of the evidence on record and after hearing the submissions advanced by the learned Counsel for the appellant and the learned APP, for the reasons to follow, Criminal Suo Moto Application is allowed. The substantive sentence imposed by the learned Ad hoc Dist. Judge-2 & Addl. Sessions Judge, Kalyan vide Judgment and Order dated 5/4/2015 is enhanced to 10 years. The sentence of fine is also enhanced to Rs. 25,000/-.

4 As according to the learned Counsel for the appellant, he has undergone 5 years of substantive sentence including remission as imposed by the learned Sessions Court and released on 17th July,

2015 from Nashik Road Central Jail, the appellant is present in the court. Officer of Mahatma Phule Police Station is also before the Court. The appellant be taken into custody and be produced before the learned Sessions Court, Kalyan.

5 The learned Sessions Court may direct the accused/appellant to be sent to appropriate jail for serving the enhanced sentence. The learned Sessions Court shall issue notice to P.W.1. Out of the fine amount, Rs. 24,000/- be paid to P.W. 1. The learned Sessions Court shall take steps in accordance with law.

6 Office to issue writ forthwith.

The parties to act on the authenticated copy of this order.

(SMT. SADHANA S. JADHAV,J)