

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Criminal Revision Application No.222 of 2007
(Vipinkumar Gupta V State of Maharashtra thr Dy. Director, Industrial Safety and Health, Nagpur)

Office Notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's orders

[Shri Lalwani, adv for applicant.
 Shri Laddhad, APP for State]

CORAM : A.B. CHAUDHARI, J.
DATED : 30.06.2015.

The revision applicant had filed this revision against the concurrent findings of fact recorded by the Courts below in Summons Criminal Case No.498 of 2000 as well as Criminal Appeal No.45 of 2005 by which the applicant was convicted for the offences punishable under Section 7-A(1) read with Section 92 of the Factories Act, 1948.

I have perused the impugned judgment passed by the lower appellate Court. By the impugned judgment the appellant was sentenced to suffer R.I. for three months and fine of Rs. 50,000/- i/d further R.I. for seven days.

The incident had taken place in the factory of the applicant in which the stake of ingots collapsed on the person of worker and in that incident the worker had expired. The incident had took place on 21-04-2009.

Since the appellant did not remain present, this Court had issued bailable warrant and there is a report from the Police Station Officer Ambazari that the applicant was residing as a tenant till the year 2003 on his address that was given in the Police Station and thereafter he left the house in 2003 and therefore they do not know his new whereabouts. The learned Counsel for the applicant also is not in a position to trace out his whereabouts.

Be that as it may, having regard to the concurrent findings of fact recorded by the Courts below, I think that in the revisional jurisdiction it would not be possible to interfere with the findings of fact. Nevertheless, looking to the time that has passed from the date of incident and the sentence to suffer R.I. for three

months and fine of Rs. 50,000/- i/d further R.I. for seven days would make no sense at this stage and if the sentence of fine amount of Rs. 50,000/- is confirmed, it would sub-serve the interest of justice.

The applicant was also prosecuted for the offence punishable under section 304-A of the Indian Penal Code but then the whereabouts of the respondent are not known and that is why the plea of double jeopardy cannot be considered. Thus, I make the following order :-

Order

A] Criminal Revision Application No. 222 of 2007 is partly allowed.

B] The conviction under Section 7-A(1) read with Section 92 of the Factories Act, is confirmed.

C] The sentence awarded by the lower appellate Court, however, is modified as under :-

The award of sentence of simple imprisonment for one month is set aside.

By substitution, the revision applicant is sentenced to pay a fine of

Rs. 50,000/- within a period of six months. If the fine amount is not paid by that date the required procedure shall be followed to recover the same.

JUDGE

Deshmukh