

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO. 195 OF 2002

Prakash s/o Rajdhar Borade,
Age: 32 years, Occ: Service,
R/o. Haddiwali Chawol,
Bhusawal, Dist. Jalgaon.

...Applicant

versus

The State of Maharashtra

...Respondent

.....
Mr. Satej S. Jadhav, Advocate for applicant
Mr. A.R. Kale, A.P.P. for respondent
.....

CORAM : N.W. SAMBRE, J.

DATE : 2nd APRIL, 2016

ORAL ORDER :

Having heard respective Counsel, it is noted that the present applicant was convicted by learned Judicial Magistrate, First Class, Bhusawal on 25/11/1998 for the offence punishable under Section 324 of the Indian Penal Code, pursuant to Section 248(2) of the Code of Criminal Procedure and sentenced to suffer simple imprisonment for six months and fine of Rs.500/-, in default, to undergo simple imprisonment for 15 days. The Magistrate then released him on probation pursuant to the provisions of Section 4 of the Probation of Offenders Act.

2. In the appeal, the appellate Court confirmed the conviction, however, withdrawn the benefit granted under Section 4 of the Probation of Offenders Act on the ground that the report of Probation Officer, pursuant to sub clause (2) of Section 4 and sub clause (1) of the said Section was not called.

3. In my opinion, the reasons furnished for withdrawing benefit of Probation of Offenders Act was uncalled for, particularly in the light of judgment of Apex Court in the matter of **State Through Central Bureau of Investigation, Anti Corruption Branch, Chandigarh Vs. Sanjiv Bhalla & anr.** reported in **(2015) 13 SCC 444.**

4. In view of above, the benefit conferred on the applicant pursuant to the provisions of Probation of Offenders Act, particularly in clause-5 of the order of the Judicial Magistrate, First Class, Bhusawal passed on 25/11/1998 in Regular Criminal Case No. 6 of 1995 stands restored, by quashing the order of learned Adhoc Additional Sessions Judge, Jalgaon passed on 08/07/2002 to the extent of withdrawing benefit of Section 4 of the Probation of Offenders Act. The applicant shall appear before the Probation Officer within period of four weeks from today and shall also execute bond that he shall not indulge in any similar offence as alleged against him.

5. The criminal revision application stands allowed in above terms.

[N.W. SAMBRE, J.]