

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****CRIMINAL APPLICATION NO. 3152 OF 2016**
IN APEAL/372/2016 WITH APEAL/372/2016

1. Hanuman S/o Dattarao Karkar
Age : 34 years, Occ : Labour,
2. Meenabai W/o Hanuman Karkar
Age : 28 years, Occ : Labour,
3. Sojarbai W/o Dattatrao Karkar
Age : 59 years, Occ : Labour,
4. Dattarao S/o Tukaram Karkar
Age : 69 years, Occ : Labour,
5. Digambar S/o Dattarao Karkar
Age : 29 years, Occ : Labour,

All R/o Thadi Ukkadgaon,
Tq. Sonpeth, Dist. Parbhani.

..APPLICANTS

VERSUS

The State of Maharashtra
Through Police Inspector,
Police Station, Sonpeth,
Tq. Sonpeth, Dist. Parbhani.

..RESPONDENT

...

Mr. P.N. Kalam holding for Mr. P.N. Muley,
Advocate for the applicants.

Mrs. P.V. Diggikar, APP for Respondent/State

...

CORAM : S.S. SHINDE & SANGITRAO S. PATIL, JJ.

Dated: October 25, 2016

PER COURT :-

The applicants have sought suspension of sentence passed against them by the learned Additional Sessions Judge, Gangakhed in Sessions Case no.7 of 2012 vide judgment and order dated 12th May, 2016, convicting the applicants for the offences punishable under sections 144, 148 and 302 read with section 149 of the Indian Penal Code (In short, "the I.P.C.").

2. The learned counsel appearing for the applicants, on instructions, seeks permission to withdraw the application so far as applicant nos. 1, 4 and 5 are concerned.

3. The application is dismissed as withdrawn, so far as applicant nos. 1, 4 and 5 are concerned.

4. Heard the learned counsel for the applicants. He submits that applicant nos. 2 and 3, who, admittedly, were on bail during the trial, were not actually involved in the incident in question. He invites our

attention to the evidence of Ashabai (PW-4) in support of his contentions. He submits that considering the role attributed to applicant nos. 2 and 3, they may be released on bail.

5. As seen from the evidence of Ashabai (PW-4), who is stated to be an eye witness, applicant nos. 2 and 3 had caught hold of this witness and had beaten her. Her evidence does not show that they actually assaulted the deceased person, who was the husband of Ashabai(PW-4). Considering this role attributed to applicant nos. 2 and 3, the fact that they are women and that they were on bail during the trial, we think it fit to suspend the sentence against applicant nos. 2 and 3 during pendency of the appeal. Hence the following order:-

ORDER

(i) The sentence of imprisonment passed against applicant no. 2 - Meenabai W/o Hanuman Karkar and applicant no.3- Sojarbai W/o Dattarao Karkar is hereby suspended, on their executing personal bond of Rs. 15,000/- (Rs. Fifteen thousand) each with solvent surety each in the like amount.

(ii) The application so far as applicant nos.1, 4 and 5 is concerned stands dismissed as withdrawn.

(iii) The application stands disposed of in the above terms.

(SANGITRAO S. PATIL, J.)

(S.S. SHINDE, J.)

...

SGA