

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 6 OF 2004

1] Hanmantu S/o Iranna Tamboli,
Age 32 years, Occu.: Agri.,
R/o Shankatganj, Ratnali,
Dharmabad, Dist. Nanded

2] Basappa S/o Iranna Tamboli,
Age 29 years, Occu. and
R/o as above

3] Subhash Baswanta Warle,
Age 28 years, Occu.: Agri.,
R/o Wani Gawala, Tq. Mudhol (AP)
at present Shankatganj,
Ratnali, Dharmabad, Dist. Nanded
(Now in Jail)

.. Petitioners
(Ori. Accused)

Vs.

The State of Maharashtra
Through P.S. Dharmabad at the
instance of Yashodabai
Tamboli R/o Dharmabad

.. Respondent
(Orig. Complainant)

Mr. V.V. Bhavthankar, Advocate for the petitioners
Mr. N.T. Bhagat, APP for the respondent/State

CORAM : N.W. SAMBRE, J.
DATE : 16/08/2016

ORAL ORDER :

Heard.

2. Petitioners / Original accused were convicted
by the learned Ist Adhoc Assistant Sessions Judge,

Biloli vide judgment and order dated 5/4/2003 in Sessions Case No. 22 of 2000 for the offences punishable under section 324 r/w. 34 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for 2 years and fine of Rs.1000/- each.

3. Learned counsel for the petitioners submits that the fine amount is already paid and their appeal being Appeal No. 21 of 2003 is dismissed by the learned Additional Sessions Judge, Biloli vide judgment and order dated 3/1/2004, confirming the findings recorded by the learned Ist Adhoc Assistant Sessions Judge, Biloli.

4. According to learned counsel for the petitioners, the incident in question which has set the trial into motion, took place on 23/10/1999 and it is after lapse of about 17 years, particularly, when each of the petitioners have reached their age of 50 years, they are required to face the present Revision against the conviction. Though on merit, he tried to assail the judgment of both the Courts below, on the basis of appreciation of evidence, according to him, each of the petitioners is ready and willing to compensate the

victim by making payment of Rs.5000/- by each of them. He would then submit that apart from above, since the conviction is for a period of 2 years, pursuant to the provisions of section 360 of the Code of Criminal Procedure, the petitioners be granted benefit of the Probation of Offenders Act.

5. The prayer is opposed by the learned A.P.P. on the ground that during the prosecution of the petitioners, the offence is proved by the prosecution beyond reasonable doubt and the petitioners were instrumental in causing bodily harm to the victim. He would submit that the Revision be rejected and the orders of both the Courts below be confirmed.

6. *Prima facie*, upon reading of the scheme under section 360 and 361 of the Code of Criminal Procedure, it is required to be noted that benefit of Probation of Offenders Act can be extended to the petitioners, as the petitioners are sentenced for the offence punishable under section 324 of the Indian Penal Code, awarding the punishment of 2 years maximum and the fine amount is already paid by them.

7. Shri Bhavthankar, learned counsel for the

petitioners has invited my attention to the fact that during the pendency of the present proceedings, the petitioners / original accused are not convicted for any of the offence/s, other than the offence, which is questioned in the present Revision. The said statement is accepted as an undertaking.

8. In view of above, I propose to pass the following order :-

: **ORDER** :

9. The impugned orders of conviction passed by the learned Ist Adhoc Assistant Sessions Judge, Biloli and maintained by the learned Additional Sessions Judge, Biloli are hereby confirmed.

10. It will be appropriate in the fitness of things to extend the benefit of Probation of Offenders Act to the petitioners. The petitioners shall execute bonds of good behaviour and also furnish one local surety each, where the petitioners reside, that they shall not disturb the law and order for a period of two years.

11. If it is noticed that the petitioners have

conducted in violation of the observations made hereinabove, the learned Magistrate, for giving effect to the order of conviction, shall have every right to apprehend the petitioners and place report to that effect before this Court.

12. The petitioners undertake to pay compensation of Rs.5000/- (Rs. Five Thousand) by each of them, to be deposited with the Probation Officer, Dharmabad, District – Nanded, within a period of six (6) weeks from today and the said Probation Officer will be at liberty to forthwith transmit the said amount to the victim – Yashodabai Hanmantu Tamboli, within a period of four (4) weeks thereof and shall also forward compliance report to this Court.

13. Learned A.P.P. undertakes to communicate this order to the Probation Officer of Taluka Dharmabad, District – Nanded.

14. Criminal Revision Application as such stands disposed of in the above terms.

[N.W. SAMBRE]
JUDGE

arp/