

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

CRIMINAL REVISION APPLICATION NO. 347 OF 2003

Dinesh s/o Shankar Beldar,
Age: 32 years, Occ: Labourer,
R/o. Melsangave, Tq. Muktainagar,
Dist. Jalgaon.

...Applicant

versus

The State of Maharashtra

...Respondent

.....
Mr. N.R. Thorat, Advocate h/f Mr. A.K. Tiwari, Advocate for applicant
Mr. A.R. Kale , A.P.P. for respondent
.....

CORAM : N.W. SAMBRE, J.

DATE : 21st APRIL, 2016

ORAL ORDER :

This revision is by the accused questioning the legality and validity of the judgment passed by Judicial Magistrate, First Class, Muktainagar, in Regular Criminal Case No. 9 of 1998, on 06/10/1999, sentencing the present applicant for R.I. for six months for offence punishable under Sections 323, 324, 504 of the Indian Penal Code, with fine of Rs.500/- under each section, in default, to suffer rigorous imprisonment for one month. The sentence, upon appeal by the applicant was confirmed by learned Additional Sessions Judge, Jalgaon vide judgment and order dated 30/09/2003 in Criminal Appeal No. 52 of 1999 as regards the offence punishable under Sections 323 and 324 of the Indian Penal Code, however

acquitted of the offence punishable under Section 504 of the Indian Penal Code.

2. The facts, as are necessary for deciding the present revision, are as under :-

On 16/01/1998 Sukhlal Beldar, lodged the complaint against the applicant alleging the present applicant alongwith one Yuvraj assaulted him with an axe. The crime came to be registered for the offence punishable under Sections 323, 324, 504 read with Section 34 of the Indian Penal Code against the present applicant and other accused and learned magistrate after getting charge sheet tried them vide Regular Criminal Case No. 9 of 1998 resulting into above referred conviction.

3. After framing charge at Exhibit-20 and after appreciating the evidence that was brought on record, conviction came to be ordered, which was upheld in revision as regards offence punishable under Sections 323, 324 of the Indian Penal Code and acquitted of the offence punishable under Section 504 of the Indian Penal Code.

4. Learned Counsel for the applicant, on merit, made two-fold submissions; (1) that the complainant was hospitalized for two

days and recovery is shown to have been made from him in relation to the weapon and blood stained clothes, and (2) appreciation of evidence.

5. With the assistance, I have scanned the original record and proceedings and noted that there is no substance in the submissions made. In fact, from the testimony of PW-4 Dr. Girish Patil, which could be inferred that victim was treated as indoor patient and was discharged. The prosecution has examined PW-1 complainant Sukhlal Beldar, panch witness PW-2 Rajendra Patil, independent witness PW-3 Eknath Koli and medical officer PW-4 Dr. Girish Patil. The prosecution has not examined the investigating officer and remaining witnesses.

6. If the evidence of witnesses PW-1, PW-2 and PW-3 are analysed, there appears to be sufficient material on record to connect the present applicant's involvement in the crime in question. The injuries suffered by the victim were also proved by examining medical officer PW-4 Dr. Girish Patil.

7. Apart from above, it is required to be noted that the evidence as is brought on record are that of eye witnesses and as such, conviction of the applicant is required to be sustained.

8. It is then required to be noted that in appeal, the appellate Court has partly allowed the same and maintained the conviction of present applicant for the offence punishable under Sections 323, 324 read with Section 34 of the Indian Penal Code, however acquitted of the offence punishable under Section 504 read with Section 34 of the Indian Penal Code.

9. In this background, learned Counsel for the applicant submits that looking to the nature of offence and the fact that the applicant and complainant are neighbours, provisions of Probation of Offenders Act be invoked and the applicant be released on probation.

10. In view of the observations made by both the Courts below, it will be appropriate, in my opinion, to order the release of the applicant on probation. The applicant shall execute a bond of good behavior with the Probation Officer of the relevant place. The applicant, as such, be released on probation.

11. Criminal Revision Application stands disposed of, with above observations.

[N.W. SAMBRE, J.]