

(1)

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

CRIMINAL REVISION APPLICATION NO.222 OF 2015

Vitthal s/o Limbaji Bhaskar,
Age : 95 years, Occu. Labour,
R/o Krushnanagar, Tq. Ambajogai,
Dist. Beed

..APPLICANT

VERSUS

The State of Maharashtra
Through Police Station Officer,
Police Station (Rural),
Parli – Vaijinath, Dist. Beed

..RESPONDENT

Mr S.S. Bora, Advocate for applicant;
Mr N.T. Bhagat, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 24th October, 2016

ORAL ORDER :

Heard Mr Bora, learned Counsel appearing on behalf of the applicant and learned Addl. Public Prosecutor on behalf of the respondent.

2. The applicant-accused was convicted by learned 3rd Judicial Magistrate First Class, Ambajogai, vide judgment and order dated 24th February, 2011, passed in Regular Criminal Case No.113 of 2003, for offences punishable under sections 323, 324 and 506 of the Indian Penal Code and sentenced to undergo simple imprisonment for three months, one year and three months, respectively, with fine of Rs.500/- on each count.

(2)

3. Criminal Appeal No.5 of 2011, preferred by the applicant challenging the aforesaid judgment and order of conviction, came to be dismissed by learned Additional Sessions Judge, Ambajogai, vide judgment and order dated 30th July, 2015. As such, present revision.

4. Mr Bora, learned Counsel appearing on behalf of the applicant invites my attention to the age of the applicant, which is about 95 years. Apart from merits of the matter, according to him, the applicant be extended benefit of section 360 of the Code of Criminal Procedure and section 6 of the Probation of Offenders Act, as the applicant is sentenced for maximum period of one year. He would then urge that during pendency of the present proceedings, the applicant is not convicted for any other offence.

5. Learned Addl. Public Prosecutor opposed the prayer.

6. Having regard to the judgment of the 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**, in my opinion, it will be appropriate to extend the benefit of Probation of Offenders Act to the applicant, with certain modifications. Thus, the following order :-

The conviction of the applicant is maintained.

However, instead of sentencing the applicant at once, he is ordered to be released on probation of good conduct, on following terms :-

(3)

The applicant shall deposit additional fine of Rs.25,000/- before the learned Trial Court, within four weeks from today, which shall be paid to the victim, i.e. informant Kerappa s/o Pandurang Bhaskar. Learned Judicial Magistrate, Ambajogai, shall ensure payment of said amount to the first informant.

Failure to deposit additional amount of fine of Rs.25,000/- as directed, shall result into maintaining the conviction and sentence of the applicant, as ordered by the learned Magistrate and affirmed by the learned appellate court.

The applicant shall execute a bond with one surety before the Probation Officer, within a period of four weeks from today, to appear and receive sentence when called upon during the period of one year from today and in the meantime shall keep the peace and be of good behaviour.

Criminal Revision Application stands partly allowed in above terms.

(N.W. SAMBRE, J.)

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