

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO.71 OF 2016
WITH
BAIL APPLICATION NO.85 OF 2016**

Gorakhnath Dagadu Lasure & Ors. Applicants
Vs.
The State of Maharashtra Respondent

Mr. Naveen R. Chomal, Advocate for the Applicants.
Mr. D.R. More, A.P.P. for the Respondent - State.

Coram : Smt. R.P. SondurBaldota, J.

Date : 22nd February, 2016

P.C.

1 This revision application is by original accused nos. 7, 8 and 9 to challenge the concurrent findings of the courts below as regards their conviction for the offences punishable under Sections 143, 147, 353 and 427 Indian Penal Code. The trial court convicted the applicants alongwith other accused persons and sentenced them to imprisonment for a period of three months with fine of Rs.500/- each, for the offence punishable under Section 143 Indian Penal Code, rigorous imprisonment for six months and fine of Rs.1,000/- for the offence punishable under Section 147 Indian Penal Code, rigorous imprisonment for six months and fine of Rs.1,000/- for

the offence punishable under Section 353 Indian Penal Code and rigorous imprisonment for six months and fine of Rs.1,000/- for the offence punishable under Section 427 Indian Penal Code. The applicants and the other accused persons were acquitted of the offences punishable under Sections 148, 323, 337 Indian Penal Code and under Sections 37(1)(3) read with Section 135 of Bombay Police Act.

2 The applicants had challenged their conviction and sentence by preferring Criminal Appeal No. 151 of 2010 and 154 of 2007. The Sessions Court dismissed their appeals and confirmed the order of the trial court.

3 The brief facts of the prosecution case are that on 17th November, 1997, Sessions Case No.147 of 1997 for the offences punishable under Sections 376, 363 and 506 was fixed for judgment in the Court of Sessions, Nasik. The relatives and acquaintances of the accused had gathered in the court premises for hearing the judgment. Applicants no.1 and 2 are the parents of one of the accused. At about 4.00 to 4.30 pm., when the judgment of conviction of the accused was pronounced, the applicants and other persons waiting outside the court room, started abusing the learned Judge and pelting stones towards the court hall. The court officials had to close the door of the

court hall. The applicants and other persons then started banging on the door of the court hall, kicking it, throwing stones, thereby breaking the window-panes of the court hall and also causing injuries to the court staff. The first informant, a police constable and other police on duty tried to reason with the applicants and others. However, they paid no heed and became aggressive. The police then had to call for reinforcement and with the help of police from the mobile van, some of the accused persons were arrested on the spot. Revision applicant no.1 had allegedly pelted stones. All the accused persons were abusing the learned Judge and the witnesses in filthy language.

4 The prosecution examined as many as 14 witnesses. On appreciation of the evidence, the trial court convicted the applicants and other accused of the offences described above. The conviction by the trial court has been confirmed by the appellate court. The findings being concurrent findings, the scope of reappreciation thereof in the revisional jurisdiction by this court is limited. Unless the applicants establish that the findings are either perverse in appreciation of evidence or contrary to law, there cannot be any interference by this court.

5 Perusal of the impugned judgment shows that the incident was a serious incident, in which after pronouncement

of conviction of the accused persons in proceedings under Section 376 Indian Penal Code, there was almost a riot by the relatives of the accused. Admittedly, applicants no. 1 and 2 are the parents of one of the accused. The fact that the police persons present had tried to reason with the persons causing disturbance and thereafter the police had to call for reinforcement is sufficient to indicate the gravity of the incident. The incident had taken place in the campus of the court. The trial court has noted that the incident was an attempt on the part of the applicants to completely disrupt the functioning of the court.

6 Mr. Chomal, the learned advocate for the revision applicant submits that applicants no.1 and 2 were not arrested at the scene of the incident unlike the other accused persons. They were arrested from outside. Consequently, identification of these two applicants ought not to have been believed by the courts. Mr. Chomal, next submits that considering the age of applicants no. 1 and 2 of 76 years and 70 years respectively, a lenient view of the matter is required to be taken. As regards applicant no.3, he is a government servant, for whom there would be the prospect of loss of service. Therefore, he submits that he too be shown leniency. According to him, the substantive sentence of all the three should be reduced to the period of

sentence already undergone by them.

7 As already mentioned hereinabove, the prosecution has examined 14 witnesses. Most of whom are eye witnesses. They are either the court staff present inside as well as outside the court-hall or the policemen, present on duty. PW-14 is the first informant. He was present in the court to record the summary of disposal of cases. He stated that on the date and time of the incident when Sessions Case No. 137 of 1997 was posted for judgment, there was a police jeep present in front of the court-hall. About 5-6 police personnel were also present, who were on escort duty with the accused. After the court pronounced conviction of the accused persons, their relatives and friends, who were present inside and outside the court-hall, started passing filthy comments against the learned judge. The court staff, in order to prevent, any untoward incident closed the doors of the court hall. But the applicants and the accused persisted in their filthy comments. They started banging and kicking upon the door and pelting stones. PW-14 and other persons present tried to reason with the applicants and other accused. When they refused to listen to reason, additional help from Sarkarwada police was called over telephone. Then the applicants and other accused started abusing the police also. On arrival of the additional police help, the accused started running

in the campus of the court. PW-14 personally caught two of the accused and in all six accused were caught in the court campus. He specifically deposed that applicant no.1 had run away from the court premises. Applicants nos. 1 and 2 were arrested outside the court campus. This witness was extensively cross-examined on behalf of the all the accused. He has withstood the extensive cross-examination. He has identified all the accused persons.

8 The other witnesses include remaining police personnel, court staff and a panch. PW-1, PW-3, PW-6, PW-9, PW-11, PW-12 and PW-13 are the police personnel, PW-2, PW-4, PW-5, PW-7 and PW-8 are the court staff and PW-10 is a panch witness, a rikshaw driver waiting outside the court campus. Presence of all these witnesses at the place of incident was natural. Their evidence has also been consistent with the complaint and supports the deposition of PW-14. PW 1, PW-3, PW-7 and PW-11 refer to the presence of applicants no. 1 and 2. As regards PW 4, 5, 6, 7 and 9, no question has been put to them on identification of the applicants in the court. Except for applicant no.2, none of the accused including applicant no.1 and 3 had disputed their presence in the court campus at the relevant time. In the circumstances, identification of the applicants by the witnesses during trial cannot be doubted.

Besides, applicants no. 1 and 2, as already mentioned above are the parents of one of the accused in Sessions Case No.137 of 1997. It has been the specific evidence of all the witnesses except PW-10, the panch that they had tried to reason with the accused when they tried to create a commotion on pronouncement of judgment of conviction. Consequently, the witnesses had sufficient opportunity to notice the accused persons. For this reason also, their identification cannot be doubted.

9 The trial court has also observed in its judgment that the entire incident was going on for 25 to 30 minutes. The accused persons were banging and kicking against the door of the court-hall. They were shouting abuses against the learned judge and pelting stones, while the witnesses were trying to stop them from indulging into the acts. This had given them sufficient opportunity to notice the accused. The trial court has further noted that there is no material brought on record by the defence that there was any cause for the witnesses to depose falsely against the accused.

10 For the above reasons, I find no substance in the submission of Mr. Chomal as regards the identification of the applicants. Thus in my considered opinion, there is no infirmity

whatsoever in the concurrent findings of the courts below as regards the conviction and sentence of the applicants.

11 Mr. Chomal then draws attention of the court to the age of applicants no. 1 and 2 to seek leniency. Considering the facts of the case and the conduct of retaliation on pronouncement of the judgment of conviction, creating a commotion outside the court-hall, pelting of stones on the court premises, no leniency can be shown to the applicants. The conduct of disturbing the functioning of the court in such a manner is an extremely grave act and ought to be taken seriously. Besides, the sentence awarded to the applicants is also a proper and reasonable sentence. Hence, the Revision Application is dismissed.

12 In view of dismissal of the Criminal Revision Application, the Bail Application does not survive, the same is accordingly disposed off.

(Smt. R.P. SondurBaldota, J.)