

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.500 OF 2015

Mohd. Alamgir alias Allauddin .Appellant
Bilal Shaikh
Age:22 yrs,
residing at : Sattar Tola Bijoba,
Tal Udava, Dist:Sahebganj,
State-Jharkhand
Presently undergoing sentence
at Nashik Road, Central Prison,
Nashik.

Vs.

The State of Maharashtra .Respondent
(At the instance of DCB CID
Unit-II, Mumbai)

Mr.A.Vagal, Advocate, for the Appellant
Mrs.P.P.Shinde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 28.07.2016

ORAL ORDER

. By this Appeal, the Appellant has
impugned the Judgment and Order dated 23.07.2014
passed by the learned Additional Sessions Judge,
Greater Bombay in S.C.No.663 of 2011, only to
the extent that it imposes a harsh sentence on

him under Section 489B of the Indian Penal Code on the Appellant, was much as, the Appellant has been directed to suffer R.I. for ten years and to pay fine of Rs.5,000/- , in default to suffer R.I. for one year.

2. Learned counsel for the Appellant does not press this Appeal on merits nor does he press the conviction and sentence imposed on the Appellant under Section 489C of the Indian Penal Code, pursuant to which the Appellant was sentenced to suffer R.I. for seven years and to pay fine of Rs.1,000/-, in default to suffer R.I. for six months, for the said offence.

3. Learned counsel for the Appellant seeks reduction of the sentence imposed upon the Appellant by the trial Court only under Section 489B of the Indian Penal Code from ten years to seven years. He submits that the Appellant was 22 years old, when the alleged offence took

place and that it was the Appellant's first offence. He relied on the Judgment of this Court in the case of **Asim Jamaloddin Momin vs. State of Maharashtra**, reported in **2010 ALL MR (Cri) 3920** for seeking reduction of the sentence imposed upon the Appellant.

4. At the outset, it may be noted, that the Appeal is being pressed only on the point of sentence imposed on the Appellant by the trial Court. The learned Sessions Judge was pleased to convict and sentence the Appellant as under :-

- For the offence punishable under Section 489B of the IPC to suffer R.I. for 10 years and to pay fine of Rs.5,000/-, i/d to suffer RI for one year.

- For the offence punishable under Section 489C of the IPC to suffer R.I. for 7 years and to pay fine of Rs.1,000/-, i/d to suffer R.I. for six months.

The said sentences were directed to run concurrently. The Appellant has been in custody since the date of his arrest i.e. from

19.06.2011 and has almost undergone more than five years and few months of his sentence.

5. Considering the submissions of the learned counsel for the Appellant that the Appellant was about 22 years of age at the time of the offence and considering that he is a first time offender and was not involved in any other criminal cases, the sentence imposed by the trial Court only for the offence punishable under Section 489B of the Indian Penal Code to suffer R.I. for ten years is modified and reduced to seven years. The fine amounts directed by the learned Sessions Judge for both the offences punishable under Sections 489B and 489C of the Indian Penal Code, are maintained. The conviction awarded under Section 489C of the Indian Penal Code is also maintained.

6. The Appeal is partly allowed. The order of conviction passed by the Sessions Court,

convicting the Appellant for the offences punishable under Sections 489B & 489C of the Indian Penal Code stand confirmed. As far as sentence and fine awarded for the offence punishable under Section 489C is concerned, the same also stands confirmed. However, only the sentence imposed by the trial Court under Section 489B of the Indian Penal Code is modified and reduced from ten years to seven years, whereas the fine amount which is imposed under Section 489B of the Indian Penal Code is maintained.

7. The Appeal is disposed of on the aforesaid terms.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)