

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.821 OF 2015

IN

CRIMINAL APPEAL NO.799 OF 2015

Abdul Kuddus Mustaq Shaikh .. Applicant
Versus
The State of Maharashtra .. Respondent

Mr. Sachin Dhakephalkar, Advocate for the applicant.

Mr.A.R.Patil, APP for the Respondent State.

CORAM : ABHAY M. THIPSAY, J.

DATED : 1st APRIL 2016

P.C. :

1 Heard Mr.Sachin Dhakephalkar, learned counsel for the applicant. Heard Mr.A.R.Patil, learned APP for the State.

2 The Appeal filed by the applicant challenging his conviction and the sentences imposed upon him has already been admitted. The appellant has been convicted of an offence punishable under Section 489B of the IPC r/w section 120B of the IPC and has been sentenced to suffer RI for 10(ten) years and to pay a fine of Rs.5,000/-. He has also been convicted of an offence punishable under Section 489C of the IPC r/w section 120B of the IPC, and has been sentenced to suffer RI for 7(seven) years and to pay a fine of Rs.2,000/-. He has also been convicted of an offence punishable under Section 420 IPC r/w section 120B of the IPC and

has been sentenced to suffer RI for 7(seven) years and to pay a fine of Rs.2,000/-. He has also been convicted of an offence punishable under section 120B of the IPC, *simplicitor*, and has been sentenced to suffer RI for 1(one) year. It has been directed that the substantive sentences would run concurrently.

3 The learned counsel for the applicant submitted that as per the prosecution case itself, the present applicant who was the accused no.2 during the trial has not used the counterfeit currency notes. He pointed out that the prosecution case was to the effect that one Mohammad Bilal Shaikh – accused no.1 had on three occasions made some purchases from the shop of the First Informant, and on every occasion, the said accused no.1 had given counterfeit currency notes to the First Informant. When the said accused no.1 made purchases and gave the counterfeit currency notes towards the price, to the First Informant for the third time, he was caught. The matter was reported to the police. The prosecution case is that during the interrogation of the accused no.1, he disclosed certain information pursuant to which the police party and panchas *went to a place where the accused no.1 was residing*. The case is that in those premises, the present applicant was found. He was taken to the police station and his personal search was carried out there, when 10 counterfeit currency notes of Rs.1,000/- denomination were allegedly found with him.

4 The applicant is in custody since 15th October 2010. Arguable points needing serious consideration have been raised. In the ordinary course, the Appeal is not likely to be taken up for final hearing forthwith or within a short time.

5 Considering all the relevant aspects of the matter, I am inclined to suspend the sentences imposed upon the applicant subject to certain conditions.

6 Application is allowed.

7 Pending the hearing and final disposal of the Appeal, the substantive sentences imposed upon the applicant shall stand suspended and the applicant shall be released on bail in the sum of Rs.30,000/- with one surety in like amount on the condition that he shall report to the Nigdi Police Station on every Monday and every Thursday between 5.00 p.m to 7.00 p.m till the disposal of the Appeal.

8 Any default in reporting to the police station as ordered above shall forthwith be brought to the notice of this Court by the Officer in-charge of the said police station for further appropriate action.

9 Hearing of the Appeal is ordered to be expedited.

10 The Appeal be listed for final hearing in the week commencing from 13th June 2016.

(ABHAY M.THIPSAY, J)