

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

CRIMINAL REVISION APPLICATION NO.358 OF 2015

Nageshwar Narayan Methar & Ors. Applicants
Vs.
The State of Maharashtra & Anr. Respondents

Mr. Lokesh Zade i/by Khandeparkar & Associates for the Applicants.

Mr. Pawan Mali i/by Mr. Runal Vijay Waturkar, for Respondent no.2.
Ms. S.V. Gajare, APP for the State of Maharashtra.

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

Date : 9th February, 2016.

P.C.

1 The revision applicants have been convicted of the offences punishable under Sections 427, 504 and 506 read with 34 Indian Penal Code and sentenced to suffer rigorous imprisonment for one month for each offence with the sentences running consecutively. This would mean that the total substantive sentence to be undergone by each applicant is of three months. They have already undergone the sentence of 15 days. The applicants have also been directed to pay fine of varying amounts.

2 When this revision application was taken up for admission on 6th August, 2015, Mr. Khandeparkar, the learned advocate for the

applicants had made a statement that considering the nature of the revisional jurisdiction, he would not seek any relief in the revision proceedings, except that, the substantive sentences imposed upon the applicants be directed to run concurrently. In view of the statement, the court issued notice to the respondents and passed an order for release of the applicants on bail in the sum of Rs.15,000/- each with one surety in the like amount, on condition that all the applicants shall remain present in the court on 20th August, 2015, when the revision application was to be heard finally. Today, none of the applicants are present in the court.

3 The case of the prosecution in brief is that the applicants and the other accused on 24th February, 2014 at about 11.45 pm. had come to the gate of Shri Sai Gajanan Resort situate at Deobag. They abused the complainant in filthy language and threatened to kill him, because he had deposed in the court of law leading to their conviction. They smashed with sticks, the three electric bulbs, fixed on the compound wall of Shri Sai Gajanan Resort, threw empty beer bottles in the courtyard, strewing glass pieces all around the courtyard. All the applicants were under influence of liquor. While leaving the spot, they repeated their threats of killing the complainant. The occurrence of the incidence was witnessed by PW-2, who was doing work of painting in the said resort.

4 The trial court accepted the prosecution evidence and held the applicants guilty of the offences charged against them. They carried the order in appeal to the Sessions Court. But the Sessions Court has confirmed the order of the trial court. Thus, there are concurrent findings as regards the conviction of the applicants and also the sentences awarded to them.

5 Mr. Zade, the learned advocate for the applicants seeks to argue that the facts of the prosecution case cannot be said to be very serious considering the extent of damage to the property of Shri. Sai Gajanan Resort. Therefore the direction for consecutive running of the substantive sentences would be too harsh.

6 In my considered opinion, the extent of the damage caused cannot be decisive of the sentence awarded. The other factors to be taken into consideration would be more relevant, i.e. the manner in which the incident occurred and the intention of the applicants. The property of the complainant was attacked and the threats were issued to him because the complainant had deposed in a court of law leading to the conviction of the applicant. This is a serious matter and strict view of such conduct must be taken. Otherwise people would be emboldened to deter the witnesses from deposing in a court of law. In the circumstance, in my opinion, no interference is called for with the impugned order. Hence, the Revision Application is dismissed. The bail bonds of the applicants are cancelled.

7 Mr. Zade, the learned advocate for the applicants states that applicants no.1 and 3 will surrender on/or before 11th February, 2016 for completing their sentence. Applicant no.2 is reported to be unwell, having met with an accident. He was discharged from the hospital on 9th January, 2015. In the circumstances, applicant no.2 is permitted to surrender on/or before 22nd February, 2016.

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