

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.570 OF 2016

IN

CRIMINAL REVISION APPLICATION NO.554 OF 2016

WITH

CRIMINAL REVISION APPLICATION NO.554 OF 2016

1 Kasam Mohammed Shaikh

2 Yogesh Veljibhai Shah

)...Applicants

v/s.

State of Maharashtra

)...Respondent

Mr. Ashok M. Saraogi, Advocate for the Applicants.

Ms. A.A.Takalkar, APP for the Respondent - State.

CORAM : P N. DESHMUKH, J.

DATE : 14th OCTOBER 2016.

P.C. :

The learned counsel for applicants seeks leave to amend prayer clauses (a) and (b) in the application and revision respectively thereby praying for suspension of sentence in stead of conviction as prayed. Leave as prayed is allowed. Amendment be carried out forthwith.

2 Issue notice to respondent. The learned APP accepts notice on behalf of the State.

3 Learned counsel for applicants prays for suspension of substantive sentence imposed upon applicants and for grant of bail contending that applicants were on bail pending the trial as well as appeal before the learned Sessions Court and on the ground that applicants were on bail pending trial and have not misused the same. It is also contended that applicants since are convicted with short sentence, application be allowed.

4 Perused the documents. It is found that applicants came to be convicted by the learned Magistrate's Court for the offence punishable under Section 323 read with Section 34 of the I.P.C. and are sentenced to suffer R.I. for three months each and to pay fine of Rs.1,000/- each in default to suffer S.I. for five days. Applicants are further convicted under Section 506(II) of the I.P.C. and are sentenced to suffer rigorous imprisonment for three months each and to pay fine of Rs.1,000/- each in default to suffer S.I. for five days. In appeal carried out before the learned Sessions Court, same came to be partly allowed vide order dated 16.9.2016, thereby confirming punishment

under Section 323 of I.P.C., however, are acquitted of the offences punishable under Section 506(II) read with Section 34 of the I.P.C.

5 Considering the sentence imposed under Section 323 of I.P.C. for a period of three months and as applicants are stated to have deposited fine amount and were on bail pending trial, application is allowed as per order below:

(1) Applicants shall be released on bail on their executing fresh P.R.Bond in the sum of Rs.15,000/- each and shall continue on the same sureties.

(2) Applicants shall mark their presence with D.N.Nagar Police Station, Andheri once in a six months, on the first day of such month, pending revision.

Applicants shall provide proof of their residence to the Investigating Officer and change in address in future, if any, to the concerned police station.

6 Application is allowed in above terms.

(P. N. DESHMUKH, J.)