

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

**CRIMINAL APPLICATION NO.607 OF 2016
IN
CRIMINAL REVISION APPLICATION NO.602 OF 2016**

Abdul Rashid @ Alamgir Mangnu Khan & Ors. ... **Applicants**
V/s.
The State of Maharashtra ... **Respondent**

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Mr.Akram Kapoor, Advocate for the Applicants.
Mr.P.H.Gaikwad-Patil, APP for the Respondent/State.

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CORAM : P. N. DESHMUKH J.

DATED : 27th OCTOBER 2016.

P.C.

1 Issue notice to the respondent. The learned Additional Public Prosecutor accepts notice on behalf of the respondent/State.

2 The learned counsel for the applicant submits that applicants, who came to be convicted for the offence punishable under Sections 326, 324, 323 read with 34 of the Indian Penal Code (In short, “the IPC”) only on basis of evidence of interested witnesses, and there are cross cases registered in respect of incident of assault on complainant in this case. It is also contended that applicant No.2 has also sustained injuries in the same incident, and both the cases were tried together and has, therefore, submitted that since maximum

conviction imposed is for a period of one year, which is reduced to six months by the Appellate Court prayed that application be allowed, as applicants were on bail, pending trial.

3 It appears to be the case of prosecution that the complainant as well as applicants are close relatives and their relations are not cordial on the issue of ancestral house property of which partition has already taken place between father of the complainant and his paternal uncle, who had relinquished his share from the house property in favour of father of accused No.1 on assurance to pay Rs.50,000/- to each brothers towards relinquishment of their share, however, applicants failed to comply with said promise and in one of the meetings, there was exchange of words and assault by stick wherein applicants also sustained injuries. It is submitted that the dispute is going on since last more than 50 years.

4 Record reveals that applicants are convicted for the offence punishable under Section 326 of the IPC and are sentenced to suffer rigorous imprisonment for one year, which sentence is reduced to six months by the learned Sessions Judge maintaining fine of Rs.1,000/- and in default of payment of fine to suffer simple imprisonment for 30 days. Applicants are further found convicted for the offence punishable under Sections 324 read with 34 and 323 read with 34 of the IPC and are sentenced to suffer rigorous imprisonment for six months and to pay fine of Rs.500/-, in default to suffer simple imprisonment for 15 days on both the counts.

5 Considering the fact that applicants were on bail pending trial, and short sentence imposed, as aforesaid, application is allowed as per order below :

- i) Applicants shall be released on bail on their executing personal bond in the sum of Rs.15,000/- each with one surety each in the like amount.
- ii) Applicants shall mark their presence with J.J.Marg Police Station once in three months on first day of such month pending revision.
- iii) Applicants shall submit proof of their address to the J.J.Marg Police Station and update the change in address, if any, in future.

6 Parties to act upon copy of this order duly authenticated by Sheristedar of this Court.

(P. N. DESHMUKH J.)