

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APPA) NO. 301 OF 2016

IN

CRIMINAL APPEAL NO. 149 OF 2016

(Sagar Pawan Bhasarkar & another Vs. The State of Maharashtra through P.S.O., Ballarpur)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Rohit Joshi, Advocate for the applicants.
Shri H. D. Dubey, A.P.P. for the State.

CORAM : S. B. SHUKRE, J.

DATED : 09 JUNE, 2016

Heard learned Counsel for the applicants and learned
A.P.P. for the State.

It appears that the learned Additional Sessions Judge has found guilty the appellants of the offence of murder punishable under 302 of the Indian Penal Code and attempt to commit murder punishable under Section 307 of the Indian Penal Code on the basis of criminal conspiracy formed by these two appellants along with accused No.1 Pradeep and accused No.2 Munna. However, a close perusal of the impugned judgment and order does not disclose as to what is the evidence reasonably proving the essential ingredient of prior meeting of mind and as to how the simple injury sustained by Deepak at the hands of these appellants could have been found to be sufficient in the ordinary course of nature to cause grievous hurt unless intervened by providence.

Out of six injuries suffered by Deepak, five injuries were sustained by him on his fore-arm and all of them were in the nature

of abrasions. Sixth injury is a lacerated wound and it is on the left parietal region. This injury, being on the head, could have been considered for taking the attack made by the appellants to the area where the offence of attempt to commit murder begins. But, for that matter, a detailed discussion on evidence is required. The impugned judgment and order does not disclose the same. It is also doubtful if there is sufficient evidence to prove these charges beyond reasonable doubt.

During the pendency of the trial, both the appellants were on bail.

In the circumstances, I am inclined to allow this application by suspending the substantive sentence imposed upon both the appellants.

The application is allowed.

The substantive sentence of imprisonment imposed on both the appellants are hereby suspended subject to the condition of payment fine amount imposed upon them in the impugned judgment and order.

On payment of fine amount, both the appellants shall be released on bail on each of them executing a P. R. Bond in the sum of Rs.25,000/- together with one solvent surety in the like amount on the condition that they shall attend this Court as and when required.

This order shall remain valid till final disposal of the appeal.

JUDGE