

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

CRIMINAL APPLICATION (APPA) NOS.793 OF 2016, 794 OF 2016 & 795 OF 2016

IN

CRIMINAL APPEAL NO.450 OF 2016

(Shrikrushna P. Lahudkar and others ..vs.. State of Maharashtra, through PSO, PS Jalamb, Buldhana)

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

Court's or Judge's orders

Shri Amol Mardikar, Advocate for applicants,
Shri H.R. Dhumale, Addl.P.P. for non-applicant.

CORAM : P.N. DESHMUKH, J.

DATED : 14-12-2016

Heard Shri Amol Mardikar, learned Advocate for applicants and Shri H.R. Dhumale, learned Additional Public Prosecutor for non-applicant.

All these applications are decided by this common order since are filed for suspension of sentences imposed upon applicants by learned Additional Sessions Judge, Khamgaon. It is pointed out that so far as Criminal Application No.795/2016 is concerned, same is only for suspension of sentence imposed upon applicant while remaining two applications are also for grant of bail, in view of the fact that applicant in Criminal Application No.795/2016 was granted set off for the period already undergone.

Applicant Shrikrushna is convicted for the offence punishable under Section 304 Part II of Indian Penal

Code and is sentenced to suffer rigorous imprisonment for seven years and to pay a fine of Rs.5,000/-, in default to suffer rigorous imprisonment for six months. He is further convicted for the offence punishable under Section 323 of Indian Penal Code and is sentenced to suffer rigorous imprisonment for three months and to pay a fine of Rs.500/-, in default to suffer rigorous imprisonment for fifteen days.

Applicant Vijay is convicted for the offence punishable under Section 307 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for four years and to pay a fine of Rs.2,000/-, in default to suffer rigorous imprisonment for three months.

While, applicant Pralhad is convicted for offence punishable under Section 323 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for three months and to pay a fine of Rs.500/-, in default to suffer rigorous imprisonment for fifteen days, who is granted set off as aforesaid.

All the applicants are found to be tried for the offences punishable under Sections 302, 324, 504, 506 read with 34 of Indian Penal Code and are convicted as aforesaid.

On perusal of evidence of injured Vijay who has also filed the report, he is found to have exaggerated the case as from his evidence it is found that he has materially improved his versions. Material omissions from his evidence are brought on record in paragraph No.10 of his cross-examination.

Evidence of eyewitnesses, has been duly dealt with by the learned trial Judge and has noted that from the careful scrutiny of the evidence on record, it reveals that all the accused persons had shared common intention to cause bodily injury to injured persons. However, it is difficult to hold that all of the accused persons had intended to commit murder of deceased Rambhau and P.W.3 Rajendra and accordingly evaluated the evidence independently to consider the individual role played by each of the accused persons and has ultimately convicted as aforesaid.

Maximum punishment imposed upon applicant Shrikrushana under Section 304 Part II is of seven years.

Having considered the evidence as aforesaid and as conviction imposed upon applicant Vijay and Pralhad can termed to be short sentences who were all admittedly on bail pending trial and as it is no case of prosecution that they have misused the liberty granted to them while on bail, applications are liable to be allowed

as per order below.

Order

- (i) Substantive sentences imposed upon applicants in Criminal Application Nos.793/2016 and 794/2016 stand suspended pending appeal on their making payment of fine amount.
- (ii) Applicants shall be released on bail on their executing P.R. Bond in the sum of Rs.20,000/- each with one surety each in the like amount.
- (iii) Substantive Sentence imposed upon applicant in Criminal Application No.795/2016 stands suspended pending appeal on his making payment of fine amount.
- (iv) While on bail, applicants shall mark their presence with Jalamb Police Station, District Buldhana quarterly on the first day of each such month.

Applications stand disposed of as allowed in above terms.

JUDGE