

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO.64 OF 2002

Vinod Ramdas Patil,
Age : 26 years, Occ. Agri.,
r/o. Nandkhurd, Tq. Erandol,
Dist. Jalgaon ..Appellant

Vs.

The State of Maharashtra ..Respondent

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Mr.M.G.Patil, Advocate i/b. Mr.Girish Nagori,
Advocate for appellant

Mr.P.N.Kutti, APP for respondent

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CORAM : SANGITRAO S. PATIL, J.
DATE : JULY 14, 2017

ORAL JUDGMENT :

The appellant (original accused no.1) has challenged his conviction and sentence for the offence punishable under Section 323 of the Indian Penal Code recorded by the learned 1st Ad-hoc Addl. Sessions Judge, Jalgaon, in Sessions Case No.89 of 1999 on 03.12.2001. The appellant has been sentenced to suffer rigorous imprisonment for

three months and to pay a fine of Rs.1,000/-, in default to suffer rigorous imprisonment for one month.

2. The learned Counsel for the appellant submits that the incident took place on 28.01.1999. The appellant has already undergone imprisonment from 28.01.1999 to 23.03.1999 in connection with this case. He submits that the appellant has been acquitted of the offences punishable under Sections 498-A and 306 of the Indian Penal Code. The period of 18 years has been lapsed after the date of incident. The offence punishable under Section 323 of the Indian Penal Code is minor one. He, therefore, on instructions, submits that the appellant does not wish to challenge his conviction on the grounds which have been taken in the appeal memo, but prays that the sentence of the appellant may be reduced to the period which he has already undergone.

3. The learned A.P.P. opposes this prayer.

4. As seen from the order under challenge, the appellant was in jail in connection with this case from 28.01.1999 to 23.03.1999 i.e. for a period of 54 days. He has been sentenced to suffer rigorous imprisonment for three months and to pay a fine of Rs.1,000/-. The appellant has deposited the fine amount on 03.12.2001. Out of the sentence of imprisonment, he has already undergone the imprisonment for 54 days. The incident took place in the year 1999. The period of 18 years has been lapsed after the occurrence of the incident. In my view, no good purpose would be served by confirming the quantum of the sentence and directing the appellant to undergo the remaining sentence of one month and some odd days.

5. I am inclined to accept the contention of the learned Counsel for the appellant for modification of sentence of imprisonment.

6. In the result, I pass the following order:-

- (i) The Criminal Appeal is partly allowed.
- (ii) The conviction of the appellant for the offence punishable under Section 323 of the Indian Penal Code is confirmed. However, the order of sentence is modified and the period of sentence is reduced to the period, which the appellant has already undergone i.e. from 28.01.1999 to 23.03.1999 (54 days).
- (iii) Bail bonds of the appellant are cancelled.
- (iv) He is set at liberty.
- (v) Appeal is accordingly disposed of.

[SANGITRAO S. PATIL, J.]

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