

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.123 of 2002

Nimba Garbad Patil,
Age : 23 yrs, Occ. : Agri,
R/o : at Post : Anjanvihire,
Tal. Bhadgaon, Dist. Jalgaon.

.. APPELLANT
(ORIGINAL ACCUSED NO.1)

VERSUS

The State of Maharashtra
Through P.S.O. Bhadgaon
Police Station
Bhadgoan, Tal & Dist. Jalgaon.

.. RESPONDENT

Ms.Chaitali Chaudhari, Advocate for Appellant
Ms.R.P.Gaur, APP for respondent – State

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

ORAL JUDGMENT :

The Appellant (original accused No.1) has challenged his conviction and sentence for the offence punishable under Section 498-A of the Indian Penal Code recorded by the learned first Ad-hoc Additional Sessions Judge, Jalgaon on 04.02.2002 in Sessions Case No. 215/1999.

02. The learned counsel for the appellant, on instructions, submits that the appellant is giving up all the grounds of objections taken in the appeal memo

against his conviction for the above-mentioned offence. She submits that the appellant has been sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs. 100/- in default to suffer rigorous imprisonment for eight days. The appellant was aged about 35 years at the time of the incident. The period of eighteen years has been lapsed after occurrence of the incident. The appellant has deposited the amount of fine. Considering the long duration between the date of occurrence of the incident and hearing of this appeal, she prays that the sentence of imprisonment may be modified and the appellant may be sentenced to suffer imprisonment for the period, which he has already undergone.

03. The learned APP opposes this prayer.

04. The appellant has been convicted for the offence punishable under Section 498-A of the Indian Penal Code and has been sentenced to suffer rigorous imprisonment for one year. The period of eighteen years has been lapsed after occurrence of the incident. This long delay in disposal of the appeal certainly would be

a mitigating factor in the matter of deciding the quantum of sentence. The appellant must be now aged about 53 years. He is not a previous convict. No criminal antecedents are attributable against him. He has already undergone the detention for a period of three months in connection with this case. In my view, no good purpose would be served by sending the appellant behind the bars after about eighteen years of the incident. Considering all these circumstances, I think fit to modify the sentence of imprisonment passed against the appellant and reduce it to the period which the appellant has already undergone. Hence, the order :-

O R D E R

- (i) The appeal is partly allowed.
- (ii) The conviction of the appellant for the offence punishable under Section 498-A of the Indian Penal Code is confirmed. However, the sentence of imprisonment is modified and it is reduced to the period which has already been undergone by the appellant i.e. from 27.06.1999 to 28.09.1999.

(iii) The bail bonds of the appellant stand cancelled.

(iv) He be set at liberty.

(v) The appeal is accordingly disposed of.

Sd/-
[**SANGITRAO S. PATIL**]
JUDGE

shp