

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2592 OF 2017
IN
CRIMINAL REVISION APPLICATION NO. 127 OF 2017

Ajinath Dhondiba Dhalpe,
Age : 40 years, Occu. Service,
R/o Shirapur, Tq. Ashti,
District Beed

APPLICANT

VERSUS

The State of Maharashtra,
through Ambhora Police Station,
Tq. Ashti, District Beed

RESPONDENT

Mr. Santosh S. Jadhavar, Advocate for the Applicant
Mr. P.S. Patil, A.P.P. for the respondent/State

CORAM : SANGITRAO S. PATIL
(VACATION COURT)

DATE : 29th MAY, 2017

ORAL ORDER :

Leave to correct the annexures.

2. Issue notice to the respondent. The learned A.P.P. waives service of notice on behalf of the respondent/State.

3. Heard the learned counsel for the applicant as well as the learned A.P.P.

4. The applicant was convicted by the learned Judicial Magistrate First Class, Ashti in Regular Criminal Case No. 43 of 2012 for the offences punishable under Sections 324 and 323 of the Indian Penal Code and was sentenced to suffer rigorous imprisonment for three years and one year, respectively as per the judgment and order dated 15th May, 2015. The applicant preferred Criminal Appeal No. 67 of 2015 against that conviction and sentence, which came to be partly allowed by the learned Sessions Judge, Beed as per the judgment and order dated 24th May, 2017. The learned Sessions Judge set aside the conviction of the applicant for the offence punishable under Section 324 of the Indian Penal Code; however, maintained the same in respect of the offence punishable under Section 323 of the Indian Penal Code. Against the said judgment and order, the applicant has preferred Criminal Revision Application in which the present Criminal Application for suspension of sentence is filed.

5. Admittedly, the applicant was on bail during trial as well as during pendency of the appeal before the Sessions Court. He has been convicted for the

offence punishable under Section 323 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs. 100/-. According to the learned counsel for the applicant, the applicant has already deposited the amount of fine. He has been taken into custody for serving the sentence of imprisonment.

6. Since the applicant was already on bail during trial as well as during pendency of the appeal and since the applicant is challenging his conviction and sentence for the offence punishable under section 323 of the Indian Penal Code by this Criminal Revision Application on factual as well as legal grounds, I am of the view that the order of sentence passed against the applicant needs to be suspended until final decision of the Criminal Revision Application. Hence, the order:-

(i) The order dated 24th May, 2017, passed in Criminal Appeal No. 67 of 2015 against the applicant confirming his sentence for the offence punishable under Section 323 of the Indian Penal Code is suspended until final decision of Criminal Revision Application No. 127 of 2017, on his executing a bond in the sum

of Rs. 10,000/- (Rupees Ten thousand) with a surety in the like amount.

(ii) Inform the Sessions Court and Trial Court accordingly.

(iii) Bail bonds shall be furnished before the Sessions Court.

(iv) The Criminal Application accordingly stands allowed and disposed of.

[SANGITRAO S. PATIL]
JUDGE

npj/criapln2592-2017