

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1193 OF 2016
IN
CRIMINAL APPEAL NO. 618 OF 2012

Rashid Ali Sahadat Ali

....Applicant
Org.Appellant No.3

In the matter of
Kalim Majjin Shaikh and ors.
versus
The State of Maharashtra

...Appellants

....Respondent

Mr. Vijay Hiremath, advocate for the applicant.
Ms. S. D. Shinde, APP for the State.

CORAM : RANJIT MORE &
SMT.ANUJA PRABHUDESSAI, JJ.

DATE : 11th APRIL, 2017.

P. C. :

The applicant is the original accused No.3 in Sessions Case No. 42 of 2011. By the impugned judgment and order dated 9th May, 2012, learned Judge of the Sessions Court convicted the applicant along with original accused Nos. 1, 2, 4 and 5 for the offences punishable under Sections 142, 149, 342, 302 read with Section 34 of the Indian Penal Code, 1860 and sentenced to suffer imprisonment for life and to pay a fine of Rs.5000/- each and, in default of payment of fine, to undergo R.I. for 30 days further.

2. The applicant along with other accused challenged their conviction by filing criminal appeal No.618 of 2012. This appeal is admitted and pending for final disposal.

3. Meanwhile, the present applicant filed a miscellaneous application claiming to be minor in conflict with law at the time of the subject incident. This application was allowed by learned Additional Sessions Judge by his order dated 2nd August, 2016 and it was declared that the date of birth of the applicant is 18th June, 1992 and he was 17 years, 10 months and 26 days old and was juvenile in conflict with law on 14th October, 2014 i.e. on the date of the incident.

4. Learned APP has placed on record a letter dated 23rd March, 2017 of the Under Secretary to the Government addressed to Addl. Public Prosecutor for Gr.Mumbai. The same is taken on record. The letter discloses that the proposal to file appeal against the order dated 2nd August, 2016 passed by the Addl. Sessions Judge, Gr. Mumbai in Miscellaneous Application No. 382 of 2013 is turned down as the Government does not consider this to be a fit case for filing revisions/appropriate proceeding in this Court. Thus, the order declaring the applicant as juvenile in conflict with law on the date of incident has achieved finality.

5. Learned counsel for the applicant asserts and learned APP does not dispute that the applicant has undergone 8 years in jail from the date of incident. This period is more than maximum period for which a juvenile may be confined to the special home. In these circumstances, the applicant is directed to be released from the custody forthwith. The criminal application, accordingly, stands disposed of.

6. The Registry is directed to delete the name of the applicant from the record of the above criminal appeal No.618 of 2012. The Registry is also directed to forward a copy of this order to the Superintendent, Kalamba Central Prison, Kolhapur, for immediate action.

(SMT. ANUJA PRABHUDESSAI, J.)

[RANJIT MORE, J.]