

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.19 OF 2018
IN
CRIMINAL REVISION APPLICATION NO.61 OF 2018

Rahiman Usman Shaikh
versus
The State of Maharashtra

Applicant

Respondent

Mr.Sachin H. Deokar for applicant.

Ms.Nita Jain, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 23rd January 2018

PC :

1. This is an application for suspension of sentence imposed by the Trial Court and confirmed by the Sessions Court. The applicant was convicted by the Court of Judicial Magistrate, First Class, Baramati vide judgment and order dated 1st June 2010 in RCC No.98 of 2001 and was sentenced to suffer simple imprisonment for three years and fine of Rs.5,000/- for the offence u/s 325 of IPC, and was further sentenced to suffer simple imprisonment for six months for the offence u/s 323 of IPC. The applicant was, however, acquitted for the offences under Sections 504, 506 r/w 34 of IPC. The accused nos.2 and 3 were acquitted. The applicant thereafter filed Criminal Appeal No.19 of 2010 before the Sessions Court, which has been dismissed vide judgment and order dated 3rd August 2017.

2. The alleged incident had occurred on 26th April 2001. It is submitted that there is delay of two days in filing the first information report. The injured was not examined at the government hospital. There is nothing on record to indicate that the injured was forwarded to the hospital for medical examination by police. It is submitted that the prosecution is relying on the medical certificate issued by the private hospital. It is submitted that the applicant was on bail during trial as well as during pendency of the appeal. It is submitted that the applicant is in custody from 3rd August 2017.

3. Learned APP submitted that there is concurrent findings of two Courts. No case for suspension of sentence is made out. The medical evidence refers to the injury of fractures sustained by the injured witness.

4. Considering the submissions advanced by both the parties and also considering the fact that the applicant is in custody from 3rd August 2017, case for suspension of sentence is made out. Hence, I pass following order :

ORDER

(i) The sentence of imprisonment awarded by the Court of Judicial Magistrate, First Class, Baramati in Regular Criminal Case No.98 of 2001 by judgment and order dated 1st June 2010, which is confirmed by Learned Additional Sessions Court, Baramati by judgment and order dated 3rd August 2017 in Criminal Appeal No.19 of 2010, is suspended, and the applicant is directed to be enlarged

on bail on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

(ii) Criminal Application No.19 of 2018 is disposed off.

(PRAKASH D. NAIK, J.)

MST