

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 33 OF 2018
IN
CRIMINAL REVISION APPLICATION No. 43 OF 2018

Dattatraya S/o. Shankar SherkarApplicant
Vs.
The State of MaharashtraRespondent

Mr. Santosh Harischandra Chari for Applicants

Mr.Swapnil S. Pednekar - APP for the State

CORAM : PRAKASH D. NAIK, J.
DATE : 19 JANUARY, 2018.

P.C. :-

1. The Applicant is convicted for an offence punishable under Section 279 of the Indian Penal Code and was sentenced to suffer simple imprisonment for one month and to pay fine of Rs.1,000/-. The appeal preferred by the Applicant has been dismissed by the Sessions Court vide judgment and order dated 5th January, 2018.
2. It is the prosecution case that he was driving the motor vehicle belonging to police department viz. Bolero Jeep. On account of the accident, the injured suffered fracture.

3. It is submitted that the prosecution has not examined the panchas and spot panchnama was also not exhibited in evidence. It is submitted that the evidence suffers from several infirmities.

4. The learned Advocate for the Applicant submits that the Applicant is serving in police department. He was on bail during the trial as well as during the pendency of the appeal. It is further submitted on instructions that the victim and the Applicant had arrived at the settlement and an amount of Rs.3,30,000/- was paid to the injured person. It is further submitted that in the event the Applicant being taken into custody, irreparable damage would be caused to the Applicant's employment.

5. The APP submits that there is a concurrent finding against the Applicant/Accused.

6. Considering the aforesaid circumstances, the sentence of imprisonment is required to be suspended. Hence, I pass the following order:

Order

(i) The sentence of imprisonment awarded vide judgment and order dated 23rd June, 2015 passed by the Ld. Metropolitan Magistrate, 40th Court, Girgaum, Mumbai Court in C.C. 577/PS of 2014 which has been confirmed by the Sessions Court vide judgment and order dated 5th January, 2018 in Criminal Appeal No.

582 of 2015 is suspended and the Applicant is directed to be released on bail by executing a same bail bond with same cash bail which was executed during the pendency of the trial;

(ii) Criminal Application stands disposed of.

[PRAKASH D. NAIK, J.]