IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.93 OF 2012

1. Dhirajkumar Amarnath Giri.]
Aged 26 years, Occ. - Service,]
Residing at - Nagubai Patil Chawl,]
Dombivali (East).]

2. Suraj Amarnath Giri.]
Aged 24 years, Occ. - Service,]
Residing at - Ajadegaon, Chawl No.6,]
Room No.5, Dombivali (East).]
(At present in Khalapur Jail).] … Appellants / Orig.Accd.Nos.3 & 4

Versus

The State of Maharashtra.]
(At the instance of Manpada Police Station,]
Dombivali (East)).] … Respondent

ALONG WITH

CRIMINAL APPEAL NO.822 OF 2018

Mr. Raju Vasant Sarfare.]
Residing at - Giril Patil Chawl,]
Dombivali (East), District Thane.]
(At present in Open Jail Paithan, Aurangabad)] … Appellants / Orig.Accd.No.1

Versus

The State of Maharashtra.]
(At the instance of Manpada Police Station)] … Respondent

Mr. Jehangir M. Khajotia a/w Mr. Prashant Kale for Appellants in Criminal Appeal No.93 of 2012.

Dr. Yug M. Chaudhry a/w Mr. Dashrath Gaikwad for Appellant in Criminal Appeal No.822 of 2018.

Mrs. S. S. Kaushik APP for State in both Appeals.

CORAM :- B. R. GAVAI &
SARANG V. KOTWAL, JJ.
DATE :- 29 JUNE, 2018

P. C. :-

For the reasons separately recorded, following order is passed :

ORDER

(A) (i) Criminal Appeal No.93 of 2012 is allowed.

(ii) The Judgment and Order of conviction and sentence insofar as the Appellants / accused nos.3 and 4 are concerned, is set aside.

(iii) The Appellants are acquitted of the charges charged with.

(iv) The Appellants are on bail. Their bail bonds shall stand discharged.

(B) (i) Criminal Appeal No.822 of 2018 is partly allowed.

(ii) The order of conviction under Section 302 of the IPC is altered to the one under Part II of Section 304 of the IPC. The Appellant / accused no.1 is sentenced to suffer R.I. for seven years for the same.

(iii) The order of conviction under Section 326 of the IPC awarded thereunder is maintained.

(iv) The Appellant / accused no.1 has already served the sentence for much more period than what is awarded. The Appellant / accused no.1 is directed to be set at liberty forthwith if not required in any other case.

(SARANG V. KOTWAL, J.) **(B. R. GAVAI, J.)**