

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 208 OF 2008

Nasir Pocchi

...Appellant

Versus

The State of Maharashtra

...Respondent

Rupali Rajput – Advocate for the appellant (amicus appointed by the Court)

Mrs. J. S. Lohakare – APP for the respondent – State.

CORAM : DAMA SESHADRI NAIDU, J.

DATE : 8th JULY, 2019.

P.C. :

The applicant was convicted for the offence under Section 307 read with Section 120-B and 34 of IPC and was sentenced to five years' rigorous imprisonment and to pay fine of Rs. 1000/-. Besides that, the appellant was convicted and sentenced under Section 3 (1) (ii) of the MCOC Act, 1989 to suffer five years' rigorous imprisonment and to pay fine of Rs. 5,00,000/-. In default, he has to suffer one year's rigorous imprisonment.

2. As the record reveals, after the applicant's serving sentence for 5 years and 3 months pending Appeal, this Court in Criminal Application No. 220 of 2010, through its order dated 9th July 2010, enlarged him on bail..

3. This Court, in that context, has observed that even if the conviction had to be confirmed by this Court in Appeal, then the applicant, in any case, would have completed the sentence, if the remission of one year is considered. Thus, this Court enlarged the applicant on bail, pending the appeal though.

4. The learned APP agrees that nothing further survives in this appeal as the appellant has served the entire sentence, as this Court observed earlier. In this context, she has also brought to my notice that another co-accused, Accused No.6, too, filed an appeal and later withdrew it, as he had no intention to prosecute it. According to the learned APP, that co-accused had also served his entire sentence. At any rate, as it is conviction based on common intention, with the same set of allegations, I reckon, in the face of the withdrawal of appeal by the 6th accused, nothing more survives here for adjudication.

5. Accordingly, I dispose of Criminal Appeal No. 208 of 2018. Nevertheless, I place on record a word of appreciation for the assistance rendered by Ms. Rupali Rajput, the learned amicus curiae this Court appointed.

[DAMA SESHADRI NAIDU, J.]