

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

CRIMINAL APPEAL NO.767 OF 2019

Babanrao Sahadu Tile & Ors. Appellants

Vs.

The State of Maharashtra Respondent

Mr. Aniket U. Nikam a/w Mr. Aashish Satpute for the Appellants.

Mr. S.S. Pednekar, APP for State.

Coram : Smt. Sadhana S. Jadhav, J.

Date : 11th June 2019

P.C.:

1 Heard.

2 Admit.

(Smt. Sadhana S. Jadhav, J)

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

**CRIMINAL APPLICATION NO.837 OF 2019
IN
CRIMINAL APPEAL NO.767 OF 2019**

Babanrao Sahadu Tile & Ors. Applicants

Vs.

The State of Maharashtra Respondent

Mr. Aniket U. Nikam a/w Mr. Aashish Satpute for the Applicants.

Mr. S.S. Pednekar, APP for State.

Coram : Smt. Sadhana S. Jadhav, J.

Date : 11th June 2019

P.C.:

1 Heard the respective counsel.

2 This is an application under Section 389 Code of Criminal Procedure. The applicants herein are convicted by the District Judge-4 and Additional Sessions Judge, Nashik, in Sessions Case No. 135 of 2013, for the offences punishable under Sections 363, 325, 323, 427, 143, 147, 506 r/w 149 of Indian Penal Code and under Sections 3 and 4 of Maharashtra Medical Services and Institution (Prevention of Damage to Property) Act. They are sentenced to suffer rigorous imprisonment for

five years, fine of Rs.1,000/-, in default, simple imprisonment for four months/two months for the offences punishable under Sections 363 and 325 of Indian Penal Code, sentenced to suffer rigorous imprisonment for six months, fine of Rs.500/-, in default to suffer simple imprisonment for two months for the offences punishable under Sections 323, 143 r/w 149 of Indian Penal Code, sentenced to suffer rigorous imprisonment for one year, fine of Rs.500/-, in default to suffer simple imprisonment for two months for the offences under Sections 147 and 506 r/w 149 of Indian Penal Code respectively and sentenced to suffer rigorous imprisonment for three years, fine of Rs.10,000/-, in default to suffer simple imprisonment for six months for the offence under Sections 3 punishable under Section 4 of Maharashtra Medical Services and Institution (Prevention of Damage to Property) Act vide judgment and order dated 9th May 2019.

3 Learned Counsel for the applicants has drawn attention of this Court to the depositions of the witnesses and the circumstances in which the incident had occurred. According to the prosecution, the wife of accused no.1, Babanrao Tile was admitted in Wockhardt Hospital for angiography. The Doctors had suggested an operation, which was

performed on 26th August 2011. It appears that in the course of operation the patient had expired. The case was referred to the Medical Board since it was alleged that the patient has died due to negligence by the Doctors. The District Consumer Forum has held the Doctors negligent in respect of the services extended to the patient. It was observed that there are deficiencies in the services. The applicants herein had mounted assault upon the Doctors. It appears that in a fit of rage they had lost their mental equilibrium and had mounted assault upon the Doctors, the act deserves to be condemned.

4 It is pertinent to note that the prosecution has not examined the injured as the prosecution witness. Although the charge was framed under Section 307 of Indian Penal Code, the learned Court upon scrutiny of the evidence has convicted the applicants for the offence under Section 325 of Indian Penal Code. The appellants were on bail during the pendency of the trial and since it is a short term sentence, the applicants deserve extension of same relief during the pendency of the appeal. Hence, the following order.

ORDER

- i) The application is allowed and disposed of.

- ii) The substantive sentence imposed upon the applicants vide judgment and order dated 9th May 2019 is hereby suspended.

- iii) The applicants be enlarged on bail on furnishing P.R. bonds in the sum of Rs.50,000/- each with one or more solvent sureties in the like amount.

- iv) The applicants shall report to the Court of Sessions, once in six months on the date assigned by the Sessions Judge.

- v) Upon failure to attend any two consecutive dates, the Sessions Court shall report the same to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

(Smt. Sadhana S. Jadhav, J)