

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION 112 OF 2020

in

CRIMINAL APPEAL 83 of 2020

(Kiran s/o. Arjunsingh Rathod & ors..vs.. State, thr PS Yavatmal City, Dist. Yavatmal)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri Saurabh Yerawar, counsel for applicants.
Shri S.S. Doifode, Addl. Public Prosecutor for non-applicant.

CORAM: ROHIT B. DEO, J.

DATE:17.03.2020.

The appellants are convicted of offence punishable under sections 324 and 307 of the Indian Penal Code.

2. With the assistance of the learned counsel, I have scrutinized the evidence on record and the reasons recorded by the learned Sessions Judge.

3. The knife assault which caused grievous injury to PW 2 Durga, was launched by appellant 1 Kiran Rathod. Appellants 2 and 3 assaulted Akshay, Durga's son, with wooden log.

4. The appellants 2 and 3 have been convicted for offence punishable under section 307 with aid of section 34 of the Indian Penal Code. It is arguable whether the appellants 2 and 3 shared only similar intention or common intention as would attract section 34 of the Indian Penal

Code.

5. Appellant 2 Arjunsingh is aged 71 years and appellant 2 is a woman. Considering the material on record, the peculiar features of the case as regards appellants 2 and 3, I am inclined to suspend the substantive sentence.

6. However, in so far as appellant 1 is concerned, there appears to be cogent evidence on record to show that he brutally assaulted PW 2 - lady. Considering the material on record, I am not inclined to suspend the sentence as regards appellant 1 – Kiran Rathod. However, since the substantive sentence is not being suspended, the appeal shall have to be heard early. Hence, this order:

(i) The substantive sentence imposed on appellants 2 and 3 is suspended subject to payment of fine.

(ii) The appellants 2 and 3 shall be released from custody.

(iii) Bail shall be as in the trial Court.

(iv) The application for suspension of sentence is rejected as regards appellant 1 Kiran Rahod.

(v) The depositions are placed on record. R & P is received.

(vi) With consent, paper book is dispensed with.

(vii) Let the appeal be listed for final hearing on 2.4.2020.

Judge

Belkhede RS