

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

Criminal Revision Application (REVN) No. 281/2019

Rajesh S/o Pundlikrao Fiske Vs. The State of Maharashtra Through P.S.O. of
Police Station, Katol, Dist. Nagpur.

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

Court's or Judge's orders

Mr. E.W. Nawab, Advocate for the applicant.
Ms. M.A. Barabde, APP for the respondent No.1
Mr. A.S. Siddiqui h/f Mr. Altaf Ansari, Adv. for respondent No.2.

CORAM : MANISH PITALE, J.

DATED : DECEMBER 16, 2020

Heard learned counsel for the applicant.

2. In this case, the prosecution was launched against the applicant for having committed offence under Section 326 of the Indian Penal Code, 1860. The incident was said to have taken place on the day of Holi festival, when the applicant allegedly gave blow with a stick to the complainant (respondent No.2 herein). The said respondent suffered an injury on his thumb. Upon the trial being conducted, the Judicial Magistrate First Class, Katol, found the applicant guilty of having committed offence under Section 326 of the Indian Penal Code, 1860 and sentenced him to suffer rigorous imprisonment for two years and to pay fine of Rs.2,000/-.

3. Aggrieved by the same, the applicant filed an appeal, which was only partly allowed by the Sessions Court at Nagpur. While maintaining the conviction of the applicant, the Sessions Court reduced the sentence to four months rigorous imprisonment.

4. The learned counsel appearing for the applicant submitted that the fine amount was already deposited and that the applicant had undergone about 23 days of the sentence. It was brought to the notice of this Court that the applicant was released on bail by this Court when notice was issued in the present Revision Application.

5. On 24/11/2020, when this Application was listed for hearing, the learned counsel appearing for the applicant brought to the notice of this Court the fact that an application had been filed before the Sessions Court, indicating that the respondent No.2 (original complainant) and the applicant had come to an amicable settlement and that now the said original complainant has no grievance against the applicant. But, since the said original complainant was not a party in the present Revision Application, this Court granted leave to the applicant to amend the Revision Application and to add the said respondent No.2 (original complainant) as party to the present Revision Application. This Court issued notice to the said

respondent No.2 on 24/11/2020, returnable in the week commencing 14th December, 2020.

6. In response to the said notice, the respondent No.2 has entered appearance through counsel and a reply dated 11/12/2020, on affidavit is filed on the record of this Court. It is stated therein that although unpleasant incident that had taken place on the day of Holi festival, now relations between the respondent No.2 (original complainant) and the applicant were very good and that the respondent No.2 did not want the applicant to be further sent to jail. It was also stated in the reply that since there were old friendly relations between the parties, the respondent No.2 did not want any compensation in the matter.

7. In this backdrop, the learned counsel for the applicant has invited attention of this Court to the judgment of the Hon'ble Supreme Court in the case of **Rajendra Harakchand Bhandari and others Vs. State of Maharashtra and another (2012) 1 SCC (Cri) 863**, wherein the Hon'ble Supreme Court permitted reduction of sentence to the period already undergone, due to the fact that the accused and the complainant therein had compromised their dispute and a lenient view could be taken in the matter. The Hon'ble Supreme Court took note of the fact that although the offence therein i.e. under Section 307 of the Indian Penal Code, 1860, was not compoundable in terms of

compromise between the parties, a lenient view could be taken in the facts and circumstances of the case and while maintaining the conviction the sentence could be reduced to the period already undergone.

8. The learned counsel appearing for the applicant submitted that a similar course could be adopted by this Court in the facts and circumstances of the present case.

9. Considering the reply filed on behalf of the respondent No.2 (original complainant) dated 11/12/2020, filed before this Court and taking into consideration the over all facts and circumstances, particularly, the fact that the Sessions Court itself reduced the sentence to only four months of imprisonment while maintaining the conviction, this Court is of the opinion that in the peculiar facts and circumstances of the present case, the Revision Application can be disposed of by maintaining the conviction and reducing the sentence imposed upon the applicant.

10. In view of the above, the the Revision Application is partly allowed and disposed of by holding that the conviction rendered against the applicant is maintained, while the sentence is reduced to the priod already undergone by the applicant. Consequently, there would be no requirement of the

applicant to be taken into custody for undergoing any further sentence. Since the fine amount has been already deposited, no further steps need to be taken by the applicant in that regard.

11. The applicant is said to have deposited cash security of Rs.10,000/- before the Sessions Court. The same may be refunded to the applicant in view of the order passed today.

12. The Revision Application is disposed of.

JUDGE

MP Deshpande