

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

CRIMINAL REVISION APPLICATION STAMP NO.65 OF 2021

Kamlesh s/o Vitthal Thombre,
Aged about 45 years, Occ: Pan Shop,
R/o Mahadeo Mandir, Babupeth Ward,
Chandrapur, Dist. Chandrapur. **APPLICANT**

...V E R S U S...

State of Maharashtra through
PSO PS Chandrapur,
Dist. Chandrapur. **RESPONDENT**

Mr. Mir Nagman Ali (Appointed) Advocate for Applicant.
Mrs. K.R. Deshpande, APP for Respondent/State.

CORAM: **ROHIT B. DEO, J.**
DATE: **3rd SEPTEMBER, 2021.**

ORAL JUDGMENT:

The applicant is assailing the judgment dated 10.05.2018 rendered by the learned Judicial Magistrate First Class, Chandrapur in SCC 2617/2015 whereby the applicant is convicted for offence punishable under section 65(e) of the Maharashtra Prohibition Act and sentenced to suffer rigorous imprisonment for three years and to payment of fine of Rs.25,000/- (Rupees Twenty Five Thousand only).

2. The applicant challenged the judgment of conviction in Criminal Appeal 79/2018 which is dismissed by the learned Additional Sessions Judge, Chandrapur vide judgment dated 29.08.2019.

3. The accusation, which is held proved, is that the applicant was possessing two 180 ML bottles of liquor, in prohibited area.

4. I have perused the material on record, and while I have no reason to disagree with the finding of fact recorded concurrently, in my considered view the punishment is extremely harsh.

5. It does not appear that the applicant was involved in illegal trade in liquor. The liquor, which the applicant possessed, is more likely to be for personal consumption than for sale.

6. Considering the facts, the report of the Probation Officer concerned was called. The Probation Officer has recommended grant of probation.

7. The incident occurred in 2015. The applicant has a family to support comprising wife and two children, and the elder is an engineering student.

8. Considering that the applicant has no propensity, as such, to indulge in criminal activities, he is entitled to an opportunity to reform.

9. While the conviction is maintained, the sentence of imprisonment and payment of fine is set aside and instead the applicant is released on probation.

10. It is further directed that the applicant shall remain under the supervision of the concerned Probation Officer for the next two years.

11. The applicant shall enter into a bond, to permanently reside within the territorial jurisdiction of the District Probation Officer, Amravati and to furnish to the Probation Officer his phone number and permanent address. The applicant shall further undertake not to involve himself in any criminal or otherwise undesirable activities.

12. The revision application is allowed in the aforestated terms.

13. The fees of the appointed learned counsel Mr. Mir Nagman Ali be quantified and paid in accordance with the rules.

JUDGE

NSN