

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

CRIMINAL REVISION APPLICATION NO.110 OF 2020

Babarao s/o Sahadeorao Nagle,
Aged about 51 years, Occ: Labour,
R/o Sawanga, Tq. Warud,
Dist. Amravati. **APPLICANT**

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

State of Maharashtra through
Police Station Officer,
Police Station Benoda,
Tq. Warud, Dist. Amravati. **NON-APPLICANT**

Ms. Aastha Sharma, Advocate h/f Mr. P.R. Agrawal,
Advocate for Applicant.
Mr. N.S. Rao, APP for Non-Applicant/State.

CORAM: **ROHIT B. DEO, J.**
DATE: **1st SEPTEMBER, 2021.**

ORAL JUDGMENT:

The applicant is assailing the judgment dated 02.11.2020 rendered by the Additional Sessions Judge-2, Amravati in Criminal Appeal 58/2016 to the extent that the conviction recorded by the learned Magistrate in Regular Criminal Case 266/2012 is maintained and only the sentence is modified.

2. The prosecution case is that the applicant assaulted

PW-1 Satish, who is the brother of the estranged wife of the applicant, with iron rod and further assaulted PW-2 Anand on his hand.

3. Considering the evidence on record the learned Magistrate held the applicant guilty of commission of offence punishable under section 324 of the Indian Penal Code and sentenced him to suffer rigorous imprisonment for one year. In appeal, the conviction is maintained and the sentence of imprisonment is reduced to six months.

4. Considering the limited scope of revisional jurisdiction, the learned counsel for the applicant Ms. Sharma fairly did not argue that the evidence may be re-appreciated. However, she would submit that considering that the incident occurred nearly ten years ago, that the applicant has a family to support and he has not indulged in any criminal activities, he deserves the benefit of probation.

5. The report of the Probation Officer is called. The report is in favour of the applicant in the sense that the Probation Officer has recommended that the applicant be released

on probation subject to certain conditions.

6. Considering that the incident occurred in the heat of the moment, the back-drop was the estranged relationship with wife, and that the applicant has not exhibited the tendency to indulge in criminal activities, he deserves a chance to reform. Sending the applicant to jail, at this stage, would be counterproductive.

7. I am therefore, inclined to grant the benefit of Probation of Offenders Act, 1958 to the applicant.

8. While the conviction of the applicant under section 324 of the Indian Penal Code is maintained, the sentence of imprisonment is set aside.

9. It is further directed that the applicant shall remain under the supervision of the concerned Probation Officer for the next two years and in the meanwhile to keep the peace and be of good behaviour.

10. 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.

11. The revision application is allowed in the aforesaid terms.

JUDGE

NSN