

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

***CRIMINAL REVISION APPLICATION NO.115 OF 2022
WITH
CRIMINAL INTERIM APPLICATION NO.744 OF 2022
(FOR SUSPENSION OF SENTENCE)
WITH
CRIMINAL INTERIM APPLICATION NO.743 OF 2022
(FOR BAIL)
IN
CRIMINAL REVISION APPLICATION NO.115 OF 2022***

Cloud Stevan Fernandis

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Vijay K. Shelar with Ms. Anushka Shrestha, for the Applicant.

Mr. H. J. Dedhia, A.P.P for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATE : 31st MARCH 2022

P.C. :

1. Heard learned counsel for the parties.
2. Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal. Learned APP waives notice for Respondent – State.

3. By this revision application, the applicant has impugned the judgment and order dated 20th April 2012, passed by the learned Judicial Magistrate First Class, 1st Court, Kalyan, in R.C.C. No.51 of 2003, by which, the learned Judge convicted the applicant for the alleged offence punishable under Section 379 of the Indian Penal Code and sentenced him to suffer rigorous imprisonment for six months and to a pay fine of Rs.500/-, in default, to undergo further simple imprisonment for five days.

4. Learned Counsel for the applicant states that the applicant is aged 59 years and has undergone two months imprisonment. He submits that the applicant has been facing trial for the last 19 years and has already suffered because of the pendency of the trial. He submits that this is first offence of the applicant and that the applicant has no antecedents. He submits that the applicant is full of remorse and that he has two children who have completed their education in the Information Technology (I.T.) field. He submits that having regard to the facts the applicant be released on undergone sentence.

5. Learned APP submits that as far as merits are concerned, the applicant was caught red-handed by the public, after he snatched the mangalsutra. As far as sentence is concerned, he does not dispute the fact that the applicant has no antecedents.

6. Perused the papers and the evidence on record. The incident in question has taken place on 16th December 2002 at about 12:45 p.m. when the complainant i.e. PW 1 was returning alongwith her children from the school. PW 1 has alleged that one person came down from the second floor of the staircase of their building and snatched her mangalsutra and started running. The said person was apprehended by some persons and handed over to the police. The trial Court convicted the applicant on the basis of the sole testimony of PW 1. The said conviction and sentence was confirmed by the Appellate Court. As far as the merits of the case are concerned, learned counsel for the applicant does not press the revision application on merits and as such it is not necessary to deal with the case in detail.

7. Considering the aforesaid, the conviction of the applicant for the offence punishable under Section 379 of the Indian Penal Code, stands confirmed.

8. As far as the sentence is concerned, the applicant has been sentenced to to suffer rigorous imprisonment for six months. The incident in question is stated to have taken place in 2002 and the applicant is facing prosecution for about 19 years. It appears that this is the first case of the applicant and no case has been registered as against the applicant thereafter for any offence. The applicant is aged 59 years and is suffering from several ailments.

9. Considering the aforesaid, the applicant's sentence is reduced from six months to that of period already undergone. However, the fine amount is increased from Rs.500/- to Rs.10,000/-. The applicant to deposit the fine amount of Rs.10,000/- in the trial Court. The applicant be released forthwith from Taloja Central Jail, where he is lodged, on depositing fine of Rs.10,000/- in the trial Court.

10. The Revision Application is partly allowed. Rule is made absolute in the aforesaid terms.

11. In view of the aforesaid, the Interim Applications being Interim Application Nos.743 and 744 of 2022, do not survive and the same are also disposed of.

12. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.