

judgment and order dated 20th March, 2014 passed by the learned Judicial Magistrate First Class, Daund, in R.C.C.No. 39 of 2012, convicting them for the offence punishable under Section 379 r/w 34 of the Indian Penal Code. Vide the said judgment and order, both the applicants were sentenced to suffer rigorous imprisonment for three months and to pay fine of Rs.10,000/- each, in default, to suffer simple imprisonment for one month. Being aggrieved by the said order of conviction and sentence, the applicants filed an appeal being Criminal Appeal No. 27 of 2014 in the Court of the learned Sessions Judge, Baramati, District Pune. The learned Sessions Judge vide judgment and order dated 25th March, 2022, dismissed the said appeal and as such, maintained the judgment and order of conviction and sentence awarded by the trial Court.

4. Heard learned Counsel for the applicants and the learned APP for the State.

5. According to the prosecution, the incident took place on 8th December, 2011 at about 5.00 p.m. when a truck bearing No. MH-12 CT 1500 laden with sand was seen by the Talathi alongwith the Police. When the said vehicle was stopped, the driver disclosed his name i.e. Balu Sathe (applicant No.1) and informed that he did not have any receipt or

permit for carrying the sand. In the said truck, two and half brass of sand, worth Rs.15,000/- was found. Pursuant thereto, the truck laden with sand was brought to the Police Station. Thereafter, the owner of the truck i.e. Sanjay Chintaman Nimhan i.e. the applicant No.2 was informed of the same. After investigation, chargesheet was filed as against the applicants. The prosecution in support of its case, examined seven witnesses. A perusal of the evidence shows that the evidence of the prosecution witnesses is consistent with each other. The applicant No.1 was apprehended at the spot and the applicant No.2 is the owner of the said vehicle i.e. the truck in which, the sand was found.

6. The evidence of the witnesses examined by the prosecution corroborates each other and proves beyond reasonable doubt that the applicant No.1 was found transporting the sand without any permit. Admittedly, the applicant No.2 is the owner of the truck. The accused has not given any logical explanation in his defence why he has been falsely implicated by the Government officials.

7. Considering the aforesaid, no interference is warranted in the impugned judgments and orders of conviction passed by the trial Court as well as the Sessions Court.

8. As far as sentence is concerned, learned Counsel for the applicants submits that this is the first offence of the applicants. He submits that during the pendency of the applicants' case i.e. since 2011, not a single case much less a similar offence has been registered as against any of the applicants. He submits that the applicant No.1 was only a driver of the truck and that he belongs to the economically weaker section and is the sole breadwinner of his family.

9. Considering the aforesaid, the application is partly allowed on the following terms:

- (i) The conviction of the applicants is maintained under Section 379 r/w 34 of the Indian Penal Code, however, the applicants' sentences are reduced to the period already undergone.
- (ii) The fine amount is enhanced from Rs.10,000/- to Rs.50,000/- each.
- (iii) The applicants be released from jail forthwith on depositing the said amount of fine, in the trial Court at Daund.

10. Rule is made absolute on the aforesaid terms and the revision application is accordingly disposed of.

11. In view of the disposal of the aforesaid Revision Application, nothing survives for consideration in the Interim Application. The same is disposed of accordingly.

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

REVATI MOHITE DERE, J.