

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

CRIMINAL REVISION NO. 78/2021
Sachin Maroti Lothe...Versus...State of Maharashtra

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

Court's or Judge's orders

Mr. R.M.Daga, Advocate for applicant
Mr. M.B.Ghodeswar, APP for Respondent/State.

CORAM : AVINASH G. GHAROTE, J.
DATE : 06/01/2022

Heard Mr. Daga, learned counsel for the applicant.

The judgment of the learned Sessions Court dated 12.07.2021 passed in Criminal Appeal No. 11/2013, modifying the judgment of the learned Judicial Magistrate, First Class, Bhadrawati, dated 7.3.2013 in Regular Criminal Case No. 324/2011, by acquitting the applicant for the offence punishable under Section 354 r/w 34 of the IPC, however, maintaining the conviction under Section 341 r/w 34 of the IPC and sentencing the applicant to suffer fine of Rs. 500/-, is under challenge to the extent it convicts the applicant for the offence under Section 341 of the IPC and imposes the fine.

The only finding for recording the conviction is the reasoning stated in para 12 of the judgment that the applicant had restrained Kalabai on the road near the

house and picked up quarrel. The trial court on the above aspect in para 29 records that the said Kalabai was obstructed while passing through the road. It is however material to note that the evidence of Kalabai merely states that at the time of the incident, the accused had obstructed her, however, in para 7 of her cross examination, she admits that this statement is not in a complaint, considering which omission, which is material, the conviction under Section 341 of the IPC could not have been awarded by the Courts below.

Mr. Ghodeswar, learned APP has not been able to point out any other statement in the evidence of Kalabai to indicate otherwise, considering which the conviction of the applicant under Section 341 r/w 34 of the IPC by the Courts below cannot be sustained and the same is hereby quashed and set aside. The fine amount deposited by the applicant be refunded to him.

Revision is accordingly allowed in above terms. No costs.

JUDGE

rvjalit