

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**10 CRIMINAL APPLICATION NO.1947 OF 2020
IN APPEAL(ST)/2482/2020**

PAPPYA @ SALIM KHWAJA SHAIKH AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. V.D. Sapkal, Senior Counsel i/b Mr. S.R. Sapkal, Advocate for applicants

Mr. R.D. Sanap, APP for respondent

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**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATE : 23rd JANUARY, 2023

ORDER :

1 Present application has been filed for suspension of substantive sentence passed by learned Special Judge (MCOCA) and Additional Sessions Judge, Nashik in Special (MCOCA) Case No.1/2011 dated 03.05.2018, thereby convicting the present applicants/appellants. Applicants/appellants are accused Nos.1, 2 and 5 and they have been sentenced thus -

1) Accused Nos.1) Pappya @ Salim Khwaja Shaikh, 2) Vinod Subhash Jadhav and 5) Abasaheb Babasaheb Landge are convicted for the offence punishable under Section 364 read with Section 120-B

of the Indian Penal Code and sentenced to suffer rigorous imprisonment for ten years each and to pay fine of Rs.5,000/- (Rupees Five Thousand only) each, in default to suffer further rigorous imprisonment for six months each.

2) Accused Nos.1, 2 and 5 are further convicted for the offence punishable under Section 384 read with Section 120-B of the Indian Penal Code and sentenced to suffer rigorous imprisonment for three years each and to pay fine of Rs.1,000/- (Rupees One Thousand only) each, in default to suffer further rigorous imprisonment for three months each.

3) Accused Nos.1, 2 and 5 are further convicted for the offence punishable under Section 302 read with Section 120-B of the Indian Penal Code and sentenced to suffer imprisonment for life each and to pay fine of Rs.10,000/- (Rupees Ten Thousand only) each, in default to suffer further rigorous imprisonment for six months each.

4) Accused Nos.1, 2 and 5 are further convicted for the offence punishable under Section 201 read with Section 120-B of the Indian Penal Code and sentenced to suffer rigorous imprisonment for seven years each and to pay fine of Rs.3,000/- (Rupees Three Thousand only) each, in default to suffer further rigorous imprisonment for four months each.

5) Accused Nos.1, 2 and 5 are further convicted for the offence punishable under Section 3(1)(i) of the MCOC Act and sentenced to suffer imprisonment for life each and to pay fine of Rs.5,00,000/- (Rupees Five Lac only) each, in default to suffer further rigorous imprisonment for one year each.

6) Accused Nos.1, 2 and 5 are further convicted for the offence punishable under Section 3(2) of the MCOC Act and sentenced to suffer rigorous imprisonment for seven years each and to pay fine of Rs.5,00,000/- (Rupees Five Lac only) each, in default to suffer further rigorous imprisonment for one year each.

7) Accused Nos.1, 2 and 5 are further convicted for the offence punishable under Section 3(4) of the MCOC Act and sentenced to suffer rigorous imprisonment for seven years each and to pay fine of Rs.5,00,000/- (Rupees Five Lac only) each, in default to suffer further rigorous imprisonment for one year each.

8) All the aforesaid substantive sentences shall run concurrently.

2 Heard learned Senior Counsel Mr. V.D. Sapkal instructed by learned Advocate Mr. S.R. Sapkal for the applicants and learned APP Mr. R.D. Sanap for the respondent.

3 It will not be out of place to mention here that co-accused Nos.4) Sunil Dnyandeo Lahare, 7) Gani Mehboob Sayyad and 13) Nilesh Devilal Chikse, who were also convicted by the same Judge in the same case by holding that they have also committed the same offence, have filed appeals before this Court and they had filed applications for suspension of sentence. By the detailed order this Court had rejected their applications. Though the learned Advocate for the appellants has tried to bring strong circumstances to our notice; yet, as regards paragraph No.12 in Criminal Application No.1525

of 2018 with companion matters is concerned, this Court after assessing the evidence has observed that there is incriminating circumstances against the present appellants in view of Section 18 of the MCOC Act. Various decisions were also considered by this Court and then though it was admitted that the case is based on circumstantial evidence, it was held that each circumstance is different. Original accused No.8 had given statement under Section 18 of the MCOC Act and it has corroboration of many circumstances. The First Information Report mentions name of the present applicants as well as role has been attributed in the same. It will not be further out of place to mention here that out of those three applicants Nilesh Devilal Chikse had approached Hon'ble Supreme Court by way of Special Leave Petition (Criminal) Diary No.27317 of 2019 challenging the order passed by this Court on 10.04.2019 in Criminal Application No.1792 of 2018 and it has been observed that Hon'ble Supreme Court had not seen any reason to interfere in the matter and, therefore, we are also taking the same course. We do not find any such circumstance to suspend the sentence imposed on the appellants. Application stands rejected.

(Abhay S. Waghware, J.)

(Smt. Vibha Kankanwadi, J.)