

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 233 OF 2022

1. Ajinath s/o. Dada Kshirsagar,
Age 42 years, Occu. Agril.,
 2. Dada s/o. Rambhau Kshirsagar,
Age 65 years, Occu. Agri.,
- Both R/o. Bhose, Taluka Karjat,
District Ahmednagar. .. Applicants
(Original Accused)

Versus

1. The State of Maharashtra
2. Raghunath s/o. Dada Kharade,
Age 56 years, Occu. Agril.,
R/o. Bhose, Taluka Karjat,
District Ahmednagar. .. Respondents

Mr. Rahul R. Karpe, Advocate for Applicants;
 Mr. K. S. Patil, A.P.P. for Respondent No.1/State;
 Mr. Narayan B. Narwade, Advocate for Respondent No.2

...
 WITH

CRIMINAL REVISION APPLICATION NO. 236 OF 2022

1. Dada s/o. Shamrao Kharade,
Age 63 years, Occu. Agri.,
 2. Raghunath s/o. Dada Kharade,
Age 35 years, Occu. Agri.,
 3. Vivek s/o. Dada Kharade,
Age 37 years, Occu. Agril.,
- All R/o. Bhose, Taluka Karjat,
District Ahmednagar .. Applicants
(Original Accused)

Versus

1. The State of Maharashtra .. Respondents

Mr. Narayan B. Narwade, Advocate for Applicant;
 Mr. K. S. Patil, Advocate for Respondent/State

CORAM : S. G. MEHARE, J.
Reserved on : 14-12-2022
Pronounced on : 09-02-2023

JUDGMENT :-

1. Rule. Rule made returnable forthwith. By consent, heard the learned counsels for the respective parties.

2. The applicants in both the Revision Applications have impugned the judgments and order of conviction passed in R.C.C.Nos.203 and 204 of 2016 dated 25.01.2019, by the learned Judicial Magistrate, First Class, Karjat, District Ahmednagar, and confirmed by the learned Additional Sessions Judge, Shrigonda, vide judgments and orders, in Criminal Appeal Nos. 125 and 123 of 2019, dated 03.08.2022.

3. The incident happened on the same date and time. Hence, taken up for disposal under common Judgment.

4. Instead of contesting the case on merit, the parties are amicably settled the dispute and prayed for compounding the offence. On the date of the incident, the offence punishable under Section 324 of the Indian Penal Code was non-compoundable. Therefore, the learned counsels have relied upon the following cases -

(i) *Ramawatar Versus State of Madhya Pradesh, 2021 SCC OnLine SC 966,*

(ii) *Ramgopal and Another Versus State of Madhya Pradesh, 2021 SCC OnLine SC 834,*

(iii) *Rajendra Namdeo Takate and others Versus The State of Maharashtra (Criminal Appeal No.452 of 2001 with Criminal Application No. 4962 of 2015 in Criminal Appeal No. 452 of 2001 of this Court, dated 07.10.2015).*

5. The learned counsel also relied on the judgment and order of this Court passed in Criminal Application No. 763 of 2020 in Criminal Revision Application No.131 of 2017 of this Court, (*Sarfarajkhan Amirulla Khan Versus The State of Maharashtra and another*), dated 08.09.2021.

6. Considering the facts of this case, the Court is of the view that the case laws relied on by the learned counsels for the applicants are distinguishable on facts and governed by the different provisions of law. Therefore, their prayer for compounding the offence is unacceptable.

7. Perused the judgments and orders. It reveals that both the Courts below have appreciated the evidence in proper perspective. They have discussed the admissible evidence and correctly held the accused guilty and convicted them accordingly. However, the benefit of the Probation of Offenders Act, 1958 has been denied for unreasonable reason.

8. This Court has called the reports from the Probation Officer appointed under the Probation of Offenders Act, 1958. The reports from the District Probation Officer have been received. It has made a part of the record. He has recommended to extend the benefit under Section 4(1) of the Probation of Offenders Act, 1958. The conduct and behaviour of the applicants has been reported not harmful to the society and one another. This was the first offence registered against them. Therefore, the Court is of the view the benefits under Section 4(1) of the Probation of Offenders Act, 1958, may be extended.

9. After having gone through the reports of District Probation Officer. The Court is satisfied that the offenders have fixed place of abode and regular occupation at the place over which the Court exercises jurisdiction and having regard to the circumstances of the cases, nature of the offence and character of the offenders, it is expedient to release them on good conduct. Hence, in view that matter, the following order has been passed:-

(I) The impugned Judgment and orders convicting the accused of the offence punishable under Section 324 read with Section 34 of the Indian Penal Code, under Section 248(2) of the Code of Criminal Procedure, in C.R.No.150 and 151 of 2016 registered with Police Station Karjat, District Ahmednagar, is maintained.

- (II) The conviction of the accused Nos. (1) Ajinath Dada Kshirsagar and (2) Dada Rambhau Kshirsagar in R.C.C.No.203 of 2016 and accused Nos. (1) Dada Shamrao Kharade, (2) Raghunath Dada Kharade and (3) Vivek Dada Kharade in R.C.C.No.204 of 2016, for the offence punishable under Section 324 read with Section 34 of the Indian Penal Code, is set aside; however, in stead of sentencing them at once to any punishment, they may be released on their bond with sureties of Rs.3000/- each, to appear and receive sentence when called upon during the period of one year from the date of execution of their bond and in the mean time, they shall keep the peace and be of good behaviour for the period of one year from the date of furnishing the bond and surety.
- (III) The bonds and sureties be furnished before the learned Judicial Magistrate, First Class, Karjat.
- (IV) In above terms, both Revisions stand disposed of.
- (V) R & P be returned to the court of Judicial Magistrate, First Class, Karjat, District Ahmednagar.
- (VI) Rule made absolute in above terms.

(S. G. MEHARE, J.)