

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.4526 OF 2023
IN
CRIMINAL REVISION APPLICATION NO.407 OF 2023**

1. Yogesh Ashok Dhore	]	
2. Sachin Ashok Dhore	]	Applicants
Vs.		
State of Maharashtra and another	]	Respondents

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Mr. Aniket Nikam i/b Mr. Amit Icham, for Applicants.

Ms. P.N. Dabholkar, A.P.P, for Respondent No.1-State.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 11th DECEMBER, 2023.

P.C.

1. Heard Mr. Nikam, learned Counsel for the applicants and Ms. Dabholkar, learned A.P.P, for Respondent No.1-State.

2. The applicants are real brothers. By a judgment and order dated 11th May, 2017 passed in Regular Criminal Case No.3928 of 2013, 7th Judicial Magistrate First-Class, Paud, District Pune convicted both the applicants of the offence punishable under

Section 323 of the Indian Penal Code sentencing them to undergo rigorous imprisonment of six months with fine of Rs.1,000/- each, in default of payment of fine, to undergo simple imprisonment for 15 days.

3. For the offence punishable under section 325 of the Indian Penal Code, the applicants were convicted and sentenced to suffer rigorous imprisonment of one year with fine of Rs.4,000/- each, in default of payment of fine, to suffer simple imprisonment for 15 days.

4. Lower Appellate Court in an appeal bearing Criminal Appeal No.259 of 2017 preferred by the applicants, acquitted them of the offence punishable under section 323 of the I.P.C, however, maintained conviction and sentence rendered under section 325 of the I.P.C.

5. Mr. Nikam, learned Counsel for the applicants has invited my attention to the testimony of the injured complainant -P.W.-1 Subhash Tukaram Dhore, who has admitted during the cross-examination that there is a civil dispute between respondent No.2-

complainant and the applicants and, therefore, it perhaps might be an outcome of a civil dispute pending between the parties.

6. My attention has also been invited to the cross-examination of the Investigating Officer- P.W.7 – Chand Nabhibhai Mulani, who admits in his cross-examination that spot of the incident which is in front of the house of the complainant is 14 feet wide and 52 feet long from which, it can be inferred that there was no reason for the applicants to break the platform (*ota*) of the house of the complainant.

7. As regards sentence, Mr. Nikam submits that it is a short sentence and the applicants would deposit fine amount, if not deposited, within a week in the lower Appellate Court.

8. Learned A.P.P is *ad idem* on the point of short sentence and other submissions made across the bar.

9. Having considered the nature of the dispute, term of sentence awarded, absence of any antecedents and also pendency of older appeals awaiting adjudication, the present revision application may

not be heard finally in near future; continuation of incarceration of the applicants would not serve any fruitful purpose. Hence, the following order:

(a) Pending hearing of the Criminal Revision Application, execution of substantive sentence stands suspended upon applicants furnishing a PR bond in the sum of Rs.15,000/- each, with one surety in the like amount to the satisfaction of the lower Appellate Court.

(b) The applicants shall not repeat or indulge in any illegal activities *qua* respondent No.2-complainant or his family.

10. Application stands disposed of.

[PRITHVIRAJ K. CHAVAN, J.]