



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1909 OF 2024
IN
CRIMINAL APPEAL NO. 188 OF 2020

Mahadeo Pralhad Murme

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....

Mr. C.V. Dharurkar, Advocate for applicant

Ms. S.N. Deshmukh, A.P.P. for respondent - State

....

CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ
DATE : 08th MAY, 2024

PER COURT :

1. This is an application for suspension of substantive sentence imposed by Additional Sessions Judge, Omerga in Sessions Case No. 47 of 2014 vide judgment and order dated 07th December, 2017 thereby convicting the applicant for the offence punishable under Sections 302 and 201 of the Indian Penal Code.
2. Issue notice to the respondent. Learned A.P.P. waives service of notice for the sole respondent – State.
3. In nutshell, the case of prosecution is that the applicant alongwith his father assaulted his wife (Thakubai) at his residential home on 17th

August, 2014 by using wooden stick and steel pot (*ढाँचा*). She fell unconscious and was taken to hospital by her relatives. The applicant gave extra judicial confession to one of the relatives of his deceased wife that he had assaulted her. The applicant and his father were charge-sheeted and tried. The applicant's father died during trial.

4. It is submitted by learned counsel for the applicant that the case is based on extra judicial confession of the applicant. He submits that the articles viz. wooden stick and steel pot, used in commission assault, were seized. He submits that the applicant is behind the bars for more than eight years. It is submitted by him that if we consider the evidence on record, intention to kill is not seen. It is submitted that the application be allowed.

5. Learned A.P.P. opposed the application. She submits that the assault was on the head by using wooden stick and steel pot which shows intention to kill. She submits that the applicant himself made an extra judicial confession to one of his relatives and this material on record itself goes on to state that he committed the crime. She submits that the application be rejected.

6. If we go into the evidence on record, the only evidence which appears against the applicant is the extra judicial confession made by the

applicant to one of the relatives of his deceased wife and seizure of one wooden stick and one steel pot from the spot of incident. The cause of death is injury to head. It is debatable whether these articles would fall under the category of deadly weapons and whether the appellant had intention to kill. The applicant is behind the bars for more than eight years. In these peculiar facts and circumstances of the case, we proceed to pass the following order :-

ORDER

- (I) Criminal application is allowed.
- (II) Pending the appeal, the substantive sentence of imprisonment imposed on the applicant by Additional Sessions Judge, Omerga vide judgment and order dated 07th December, 2017 passed in Sessions Case No. 47 of 2014, stands suspended.
- (III) The applicant be released on his executing P.R. bonds in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(NEERAJ P. DHOTE, J.)

(R.G. AVACHAT, J.)

SSD