

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 364 OF 2006

1. Balasaheb Kisan More
Age. 40 years, Occu. Labourer.
2. Sau. Zumberbai @ Sunandabai Balasaheb More,
Age. 37 years, Occu. Household,
3. Sau. Subhangi Vijay More
Age. 27 years, Occu. Household,

All R/o. Wakodi Shivar, Nagar,
Solapur Road, Tal. Nagar,
Dist. Ahmednagar.

..Applicants

VERSUS

The State Of Maharashtra
Through the Superintendent of Police,
Ahmednagar, District Ahmednagar.

..Respondent

...
Advocate for Applicant : Ms. Madhaveshwari D. Thube Mhase
APP for Respondent/State : Mr. A.A.A. Khan

...
CORAM : S.G. MEHARE, J.

DATED : OCTOBER 16, 2024

ORDER :-

1. Heard learned counsel for the applicants and learned APP for the State.
2. The applicants have impugned the orders of conviction of the 4th Judicial Magistrate First Class, Ahmednagar in R.T.C. No.36 of 2002 dated 28.02.2005 and confirmed by the learned Adhoc District

Judge-2 and Additional Sessions Judge, Ahmednagar in Criminal Appeal No.24 of 2005 dated 11.10.2006.

3. The applicants have been convicted for the offence punishable under Section 341 r/w 34 of the Indian Penal Code and sentenced to suffer R.I. for ten days and in default to pay fine suffer S.I. for three days. They are also sentenced to suffer R.I. for one year for the offence punishable under Section 452 r/w 34 of the Indian Penal Code and one month for default in paying the fine. However, the Appellate Court acquitted them for the offence punishable under Section 504 r/w 34 of the Indian Penal Code. They have paid the fine amount. Both learned Courts believed the witnesses that the applicants with their common intention trespassed the room where the complainant was a tenant. The articles from their room were thrown away and lying in front of the house of one Kardile. The applicants were also the tenant of the same premises in one portion. They had purchased the premises from the landlord. They had a defence that the complainants were also interested to purchase the premises. However, the landlord did not sell it. Hence, they have created a picture that they were forcibly tried to be evicted without following due procedure of law.

4. The learned counsel for the applicants argued that both Courts erred in believing the evidence of father of the wife of the tenant, though he was not an eyewitness. She tried to point out that

there are material improvements in her evidence. However, the record does not reveal so. All the witnesses were consistent to the incident. The charges were proved beyond the reasonable doubt. After having gone through both judgments with the assistance of the learned counsel for the applicants and learned APP, the Court did not find any apparent error of law in appreciating the evidence and holding the applicants guilty.

5. Learned counsel for the applicants in alternative prayed that the benefit of Probation of Offenders Act may be extended because the applicants are first time offenders and after the present incident, they never involved in any such crime. Two applicants are women and only one applicant Balasaheb More is the male member in their family.

6. The learned Prosecutor has also no instructions that the applicants were involved in either crime after the conviction in the case.

7. Considering the family background and the peace maintained after the incident, the Court find it expedient to release the applicants on probation of good conduct. Hence, the following order :

ORDER

- (i) Criminal Revision Application is partly allowed.

(4)

(ii) The conviction of the applicants is maintained as per the impugned orders. However, instead of sentencing them at once to the punishment, they be released on their entering into a bond, with sureties of Rs.1,000/- (one thousand) each, to appear and receive sentence when called upon during six months from today and in the meantime, they should keep the peace and be of good behaviour.

(iii) The bonds required to be furnished under Section 4 of the Probation of Offenders Act be furnished before the Trial Court within four weeks from today.

(iv) The bail bonds stand cancelled and surety stands discharged.

(v) Rule is made partly absolute in above terms.

(S.G. MEHARE, J.)