



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4550 OF 2024
IN
CRIMINAL REVISION APPLICATION NO. 303 OF 2024

Chandar Nana Veer,
Age : 58 years, Occu. : Agri.,
R/o. Mengalewadi, Tq. Shrigonda,
Dist. Ahmednagar

... Applicant

Versus

The State of Maharashtra,
Through Police Inspector,
Police Station Belwandi,
Tq. Shrigonda, Dist. Ahmednagar

... Respondent

.....
Mr. Rahul R. Karpe, Advocate for Applicant.
Mrs. Ashlesha S. Deshmukh, APP for Respondent - State.
.....

CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 13 NOVEMBER 2024
PRONOUNCED ON : 14 DECEMBER, 2024

ORDER :

1. This is an application for suspension of sentence and grant of bail in consequence to conviction recorded by learned Additional Sessions Judge, Shrigonda in Criminal Appeal No.12 of 2021 dated 08.11.2024 for offence punishable under section 326 of Indian Penal Code (IPC).

2. Learned counsel for applicant pointed out that, after registration of crime and on being charge-sheeted, revisionist was

tried by learned 2nd Judicial Magistrate First Class, Shrigonda for offence punishable under sections 326, 325, 324, 323, 504 and 506 of IPC. Learned counsel further pointed out that learned J.M.F.C. after appreciating the evidence, acquitted the accused from all charges. That, the same was challenged before the court of learned Additional Sessions Judge, Shrigonda, who overturned the findings of learned J.M.F.C. and thereby convicted him for offence punishable under section 326 of IPC.

3. Learned counsel pointed out that, learned first appellate court awarded the sentence of two years and to pay fine. That, fine amount is paid. He further submitted that, incident is between two brothers, that too on petty count of watering the field. That, there are allegations of use of spade, which is an agricultural instrument and there are allegations of it being hit on the right hand wrist part. At subsequent point of time, on such examination, fracture was revealed.

4. Learned counsel pointed out that, there is no eye witness to the incident. According to learned counsel, before converting acquittal into conviction, learned Additional Sessions Judge has not considered the settled law. Therefore, revision has been preferred. However, it would take long time to be heard and decided and that

applicant was on bail during trial as well as during pendency of appeal before first appellate court. That, There is good case on merits. However, as a result of conviction, above prayers are required to be granted.

5. Learned APP opposed the application on the point that learned trial court though acquitted accused, the first appellate court correctly appreciated the evidence, more particularly, of medical expert PW6 Dr. Sandip Kokare. That, there is fracture and hence offence under section 326 of IPC being made out, conviction is rightly recorded. For all above reasons, she prays to reject the application.

6. After considering the submissions and on going through the papers, it seems that, present revision applicant was tried and charge-sheeted by learned 2nd J.M.F.C. Shrigonda in R.C.C. No. 228 of 2012 i.e. for offence punishable under sections 325, 323, 504 and 506 of IPC. After hearing the prosecution and case of defence, by judgment and order dated 25.06.2019, applicant was acquitted from all the charges.

7. It seems that exception was taken to the same by State by invoking section 378 of Cr.P.C. questioning the acquittal. Learned Additional Sessions Judge, Shrigonda seems to have partly allowed

the appeal of State recording the guilt of offence punishable under section 326 of IPC and awarding the sentence of two years and to pay fine. Against this order, revision is preferred and the same is apparently of 2024. The applicant was said to be on bail during trial. Sentence is of two years. Fine is said to be paid. As there are no immediate prospectus of hearing the revision, relief as prayed deserves to be granted. Hence, the following order is passed :-

ORDER

- I] Criminal Application stands allowed.
- II] The substantive sentence imposed on the applicant Chandar Nana Veer in Criminal Appeal No. 12 of 2021 by learned Additional Sessions Judge, Shrigonda on 08.11.2024 stands suspended till the final hearing and disposal of Criminal Revision Application No.303 of 2024.
- III] The applicant be released on P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with one solvent surety in the like amount.
- IV] The applicant shall not commit any criminal activity.
- V] Bail before the trial court.

(ABHAY S. WAGHWASE, J.)