

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN ITS CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 796 OF 2023

Atul Dnayndev Barge

... Appellant

Vs.

The State of Maharashtra

... Respondent

Mr. Shailesh Chavan, for the Appellant.

Mr. A. R. Patil, APP for State.

CORAM : KISHORE C. SANT, J.

DATE : 3rd APRIL, 2024

P.C.:-

1. The learned Advocate for the Appellant points out that the present Appellant is convicted under Section 307 of the Indian Penal Code, and his sentenced to suffer imprisonment for 4 years and to pay fine of Rs. 2,000/- (Rupees Two Thousand Only) and in default of payment to undergo rigorous imprisonment for 3 months. The Accused is also held guilty for the offences under Section 326 of the Indian Penal Code, and he is sentenced to suffer rigorous imprisonment for 2 years and to pay fine of Rs. 2,000/- in default of payment of fine, rigorous imprisonment for 3 months.

2. The learned Advocate for the Appellant submits that in view of Section 31 of the Code of Criminal Procedure, 1973 unless the Courts specified that the sentences to run concurrently, the Accused has to suffer

the sentence consecutively. The learned Trial Court has not specifically directed sentences to run concurrently. He submits that in the present case since the Appellant has completed almost 4 years of sentence. His grievance would be redressed by directing the sentences to run concurrently.

3. This Court finds that, in view of Section 31 of Code of Criminal Procedure, 1973, the Appellant will have to suffer sentence of total 6 years, if it is not directed to run concurrently. This Court does not find any reason for not directing the sentences to run concurrently.

4. The appeal is allowed to limited extent by directing the sentences to run concurrently by modifying the Order, the operative Order be read as:-

OPERATIVE ORDER

“1)The accused Atul Dnayndev Barge is convicted under Section 235(2) of Criminal Procedure Code, 1973 for the offence punishable under Section 307 of Indian Penal Code, 1860 and he is sentenced to suffer rigorous imprisonment for 4 years (Four years) and to pay a fine of Rs. 2,000/- (Rupees Two Thousand only), in default of payment of fine, he shall undergo rigorous imprisonment for 3 months (Three months).

2) The accused Atul Dnayndev Barge is convicted under Section 235(2) of Criminal Procedure Code, 1973 for the offence punishable under Section 326 of Indian Penal

Code, 1860 and he is sentenced to suffer rigorous imprisonment for 2 years (Two years) and to pay a fine of Rs. 2,000/- (Rupees Two Thousand only), in default of payment of fine, he shall undergo rigorous imprisonment for 2 months (Two months).

3) The accused Atul Dnayndev Barge is acquitted vide Section 235 (1) of Criminal Procedure Code, 1973 of the offence punishable under Section 506 of Indian Penal Code, 1860 in connection with C. R. No. 244/2013, registered with Koregaon Police Station, Tal. Koregaon, Dist. Satara.

4) The accused Atul Dnayndev Barge is entitled for set off under Section 428 of the Code of Criminal Procedure, 1973 to the extent of period of detention already undergone by him.

5) Both the sentences shall run concurrently.

6) The accused Atul Dnayndev Barge is present before the Court, he is taken in custody by forfeiting his bail bond.

7) Muddemal Article No. 7-Sword be sent to Collector, Satara for disposal according to law after the appeal period is over.

8) Marked and unmarked articles being worthless, be destroyed after the appeal period is over.

9) Issue conviction warrant against the accused Atul Dnayndev Barge.

10) Copy of this judgment be provided to the accused Atul Dnayndev Barge free of cost as per Section 363 (1) of the Code of Criminal Procedure, 1973.

11) As the matter is disposed of by this judgment, the record and proceeding be sent to the Record Department.”

5. It is needless to mention that the Jail Authority to consider the period of sentence as concurrent.
6. Appeal stands disposed of.

(KISHORE C. SANT, J.)