
(2013) 01 BOM CK 0179

In the Bombay High Court

Case No : Criminal Revision Application No. 196 of 2012

Meena Mohammad Mustaq Ansari

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 16-01-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 380
Probation of Offenders Act, 1958 — Section 4

Citation : (2013) ALLMR(Cri) 1254 : (2013) 3 BomCR(Cri) 473

Hon'ble Judges : M.L. Tahaliyani, J

Bench : Single Bench

Advocate : S.S. Khandekar, for the Appellant; S.M. Bhagde, Additional Public Prosecutor, for the Respondent

Judgement

M.L. Tahaliyani, J.—Heard. Admit.

2. Heard finally by consent.

3. This revision application impugns the judgment and order passed by Additional Sessions Judge, Nagpur in Criminal Appeal No. 110 of 2011. The applicant Meena Mohammad Mustaq Ansari was convicted by the learned Judicial Magistrate First Class, Corporation Court No. 2, Nagpur in Regular Criminal Case No. 1936 of 2009 for the offence punishable u/s 380 of the Indian Penal Code and was sentenced to suffer simple imprisonment for a period of six months and to pay a fine of rupees two thousand in default to suffer simple imprisonment for one month.

4. The applicant had allegedly committed theft of gold chain from a Beauty Parlour of the complainant. During the course of investigation a part of the gold chain with pendant were recovered by the police. The property recovered by the police was handed over to the complainant on execution of a bond. It was produced before the Court during the course of recording of evidence of the complainant/P.W. 2. It appears from the record and proceedings that the said

property was returned to the complainant immediately on completion of recording of her evidence.

5. The appeal filed by the applicant has been dismissed. In the present revision application the said order of Additional Sessions Judge dismissing the appeal has been challenged by the applicant.

6. The applicant is present before the Court personally. After hearing the applicant and her counsel, I have come to a conclusion that in the present case benefit of Section 4 of the Probation of Offenders Act can be extended to the applicant. The applicant is from a very poor strata of the society. Her husband is working as lorry driver at Indira Gandhi International Airport, New Delhi. She is working as maid-servant at Nagpur. She had got three children. She is also looking after her father. This is her first ever offence. There are no antecedents and no repetition of the offence. In the circumstances, in my opinion, considering the fact that the applicant is female and is having three children it would not be in the interest of justice to lodge her in the prison. On the contrary, interest of justice will be served if she is asked to execute a bond for keeping peace and good behavior. The applicant has great repentance of the act committed by her and she undertakes not to indulge in such activities in future. In view thereof, I pass the following order.

i) The order passed by learned Additional Sessions Judge in Criminal Appeal No. 110 of 2011 is set aside.

ii) The applicant is directed to be released on her execution of personal bond in the sum of rupees ten thousand for a period of three years with a condition that during the said period she will keep peace and maintain good behavior and that she will appear before the Court as and when she is required to receive the sentence to be imposed by the Court.

iii) The bond containing above stated conditions shall be executed by the applicant before the trial court.

iv) Fine amount of rupees two thousand, paid by the applicant, shall be refunded to her.

v) The applicant shall appear before the trial Court on 22nd January, 2013 for execution of the bond in accordance with this order. The revision application, accordingly, stands disposed of.

Steno copy of this judgment be furnished to the applicant according to Rules. The trial Court shall act on the steno copy.