

(2014) 07 BOM CK 0298

In the Bombay High Court

Case No : Criminal Revision Application No. 77 of 2001

Ramesh Daga Mahajan

APPELLANT

Vs

The State of Maharashtra and Others

RESPONDENT

Date of Decision : 14-07-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 354

Citation : (2015) ALLMR(Cri) 754 : (2015) 3 BomCR(Cri) 485

Hon'ble Judges : V.M. Deshpande, J

Bench : Single Bench

Advocate : P.P. Chavan, Advocates for the Appellant; A.S. Shinde, A.P.P,
Advocates for the Respondent

Judgement

V.M. Deshpande, J.—By the present Revision, the applicant has questioned the correctness of the judgment and order of conviction, passed by the Judicial Magistrate, First Class, Erandol, dated 27.11.1997 in Summary Trial Criminal Case No. 586 of 1995, whereby the learned Magistrate was pleased to convict the applicant for the offence punishable under Section 354 of the Indian Penal Code and imposed punishment of rigorous imprisonment for one month and directed the applicant to pay a fine of Rs. 1,000/-, and in default of payment of fine to undergo simple imprisonment for 15 days. The learned Magistrate also ordered that out of fine deposited by the applicant, Rs. 500/- be paid to prosecutrix by way of compensation.

The afore said order was carried in appeal by the applicant in Criminal Appeal No. 84 of 1995. The 3rd Additional Sessions Judge, Jalgaon dismissed the appeal and confirmed the judgment and order, passed by the learned trial court.

I have heard Shri P.P. Chavan, learned counsel for the applicant, Shri A.S. Shinde, learned A.P.P. for respondent No. 1 and Smt. Bharaswadkar, learned counsel for respondent No. 2 the first informant.

2. Both the courts below found that the evidence of PW 1 prosecutrix is free from

exaggeration. The courts below found that the evidence of the prosecutrix can safely be relied upon in order to record the conviction.

3. In fact, before me, the learned counsel for the applicant has fairly stated that he is unable to point out any perversity in the order passed by any of the courts below. He submitted that out of the substantive jail sentence of one month, the applicant has already suffered jail sentence of 21 days. This statement made by the learned counsel for the applicant is not controverted either by the learned Additional Public Prosecutor or the learned counsel for the first informant.

4. This court released the applicant on bail on 2.4.2001 while admitting his Revision. It is to be noted that there is no complaint that the present applicant has misused the liberty granted to him. Looking to the quantum of the sentence imposed by the courts below and looking to the fact that out of one month, the applicant has already undergone the actual jail sentence of 21 days, the interest of justice can be met by modifying the sentence only. Hence I pass following order.

ORDER

i) The judgment and order of conviction passed against the applicant for the offence punishable under Section 354 of the Indian Penal Code is hereby confirmed.

ii) The order of jail sentence passed by the learned courts below is modified to the extent the applicant has already undergone the jail sentence.

iii) The applicant is directed to pay fine amount of Rs. 5,000/- in addition to fine amount which he has already deposited in the courts below within a period of eight weeks from today.

iv) The fine amount of Rs. 5000/- deposited by the applicant shall be given to the non applicant No. 2 by way of compensation.

v) If the fine amount is not deposited within a period of eight weeks from today, then in that event, the Magistrate shall take necessary steps for serving the remaining jail sentence of the applicant.

vi) Revision is partly allowed.

vii) Rule is made absolute in above terms. Revision partly allowed.