

ITEM NO.8

COURT NO.10

SECTION IIA

**S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S**

Petition(s) for Special Leave to Appeal (Crl) No(s).261/2008

(From the judgement and order dated 27/04/2007 in CRLRA No. 183/2007 of The HIGH COURT OF BOMBAY)

VISHWAMBHAR NARAYAN JADHAV

Petitioner(s)

VERSUS

MALLAPPA SANGRAMAPPA MALLIPATIL & ANR.

Respondent(s)

(With appln(s) for exemption from filing O.T.,stay and office report)

Date: 02/12/2008 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU

HON'BLE MR. JUSTICE AFTAB ALAM

**For Petitioner(s) Mr. Venkateshwara Rao Anumolu, Adv.for
Mr. Gopal Balwant Sathe,Adv.**

For Respondent(s) Mr. Rajesh Mahale,Adv.

**UPON hearing counsel the Court made the following
O R D E R**

Leave granted.

The Appeal is allowed in terms of the signed order.

**(Parveen Kr. Chawla)
Court Master**

**(Indu Satija)
Court Master**

[Signed Reportable Order is placed on the File]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPEAL NO.1951 OF 2008
(Arising out of SLP(Criminal) No.261 of 2008)**

Vishwambhar Narayan Jadhav

..Appellant

versus

Mallappa Sangramappa Mallipatil & Anr.

..Respondents

ORDER

Leave granted.

Heard learned counsel for the parties and perused the record.

This Appeal has been filed against the impugned judgment of the Bombay High Court dated 27th April, 2007 in Criminal Revision Application No.183 of 2007.

The facts of the prosecution case are mentioned in the FIR dated 25th January, 2002, copy of which has been annexed as Annexure P-3 to this appeal. In the FIR, it has been mentioned that while the appellant was on a bus, respondent No.1 entered the bus and came to the seat of the appellant and said that you always harassed my uncle and he started abusing the appellant. Respondent No.1 then took a bottle of acid from his pocket and poured the acid on the head of the appellant with the result that the face, neck, eyes, chest etc. of the appellant were seriously burnt. Appellant was then taken to the hospital where he was given medical treatment. We have seen the photographs showing serious burn injuries on the head, face and chest of the appellant.

The trial Court, by its judgment dated 06th October, 2004, found respondent No.1 guilty under Section 326, IPC and sentenced him to suffer three years' rigorous imprisonment with a fine of Rs.3,000/-, in default to undergo further three months' simple imprisonment.

Against the aforesaid judgment, respondent No.1 filed an appeal before the Additional Sessions Judge, who by his judgment dated 13th April, 2007 confirmed the conviction and sentence awarded by the trial Court.

Thereafter, it appears that respondent No.1 filed a Criminal Revision Application No.183/2007 before the Bombay High Court and by the impugned judgment, the High Court reduced the sentence to the period already undergone but the fine was increased to Rs. 20,000/-.

We are surprised that the High Court has, in such a heinous crime, chosen to reduce the punishment to the sentence already undergone which we are informed was only 35 days. In our opinion, there was no occasion for the High Court to interfere with the judgment of the trial Court and the first appellate court. Respondent No.1 appears to be a person who has criminal inclinations and no leniency is called for for such persons, otherwise people will not be able to go around in life in peace.

Accordingly, we set aside the judgment of the High Court and restore the judgment of the trial court and first appellate court. Respondent No.1 be taken into custody forthwith to serve out his remaining part of sentence.

.....J.
[MARKANDEY KATJU]

NEW DELHI;
DECEMBER 02, 2008.

.....J.
[AFTAB ALAM]