'Courts must be careful on guilt plea'

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Mumbai: Plea bargaining has
been touted as one of the so-
lutions to speed up the legal
process in criminal cases. The
Bombay high court, however,
recently ruled that care has
to be taken before an ac-
cused's plea of guilt is ac-
cepted at face value before a
trial court. Justice A H Joshi,
heading a Nagpur bench of
the high court, quashed the
conviction of four persons,
which was based on a plea of
guilt by the accused.
"Even if a plea of guilt is
recorded, (it should) be done,
by distinctly putting to the
accused each fact alleged in
the charge, if proved, would
constitute an offence," said
the judge. "Yet even on ob-
serving these safeguards, the
court would not be relieved
from its duty of being satis-
fied that the plea of guilt was
made by the accused upon ful-
ly understanding the reper-
cussions and with free will,
and is genuine and not due to
misunderstanding," added
the judge.
Plea bargaining is quite

widespread in the West, espe-
cially the United States, where
it is said to be the most com-
mon method of disposal of
criminal cases. It is a kind of
out-of-court settlement between
the prosecution and the de-
fence, where the accused agrees
to plead guilty to one or more
of the charges or to not contest
the charges in exchange for
some benefits like a lesser sen-
tence or a lesser charge.
Though the practise of plea
bargaining was outlawed in
1980 in India, it was reintro-
duced through the Criminal
Law (Amendment) Act in 2005
where changes were made in
the CrPC. Under the law, plea
bargaining was applicable
only with respect to offences
that were not serious and for
which the maximum punish-
ment is imprisonment of up
to seven years. The benefit of
plea bargaining was not, how-
ever, available to accused who
were charged with commit-
ting a crime against a woman
or a child below the age of 14
years.
The present case before
the high court related to a
criminal charge which was

levelled against four resi-
dents of Madhya Pradesh in
October 2007 at a trial court
in Nagpur. Initially, the ac-
cused pleaded not guilty to
the charges, but later modi-
fied their stance. Subse-
quently, they addressed a let-
ter from jail saying that they
were languishing in prison

which had resulted in suf-
fering for their family and
pleaded guilty "of what we
have been charged by the po-
lice". Their lawyers then
withdrew from the case. Even
though the trial court ex-
plained to them that there
would be no reduction in the
quantum of sentence, they

persisted. The judge then
held them guilty and con-
victed them. In their appeals,
they withdrew their plea of
guilt and claimed that "some
persons had said that if they
pleaded guilty to the offence,
they would be let off with a
simple sentence".
The high court pointed to
the letter admitting guilt and
said that this was a case
where the plea of guilt "was
not in the form of admission
or confession of each fact
and act which constitute in-
gredients of offence
charged". The judge added,
"What the accused have ad-
mitted is the whole parcel of
charges that the police have
made against them, which is
always a mix of imputations
of facts alleged and allega-
tions of what it means in law.
This type of plea of guilt is
not an admission of facts."
The court said that legal
counsel was also not avail-
able to the accused.
The judge agreed that the
grievance of the accused was
justified and ordered a fresh
trial.
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