

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
CRIMINAL APPELLATE JURISDICTION.**

Criminal Revision Application No.405 Of 2001.

Manik s/o Maruti Gadakh
Age : 42 Years, Occ.: Agriculturist.
R/o.: Shirala, Tal. : Pathardi,
Dist. Ahmednagar.

:: Applicant.
[Ori.Accused No.1]

Versus

The State of Maharashtra.

:: Respondent.

Appearance ==>

Mr. Babasaheb Wagh, Advocate for the Applicant.

Mr. V.H. Dighe, Addl. Public Prosecutor for the State of Maha.

CORAM : V.M. DESHPANDE, J.

DATE : 16th JANUARY, 2015.

ORAL JUDGMENT :-

Present Criminal Revision Application is filed by Manik Gadakh, who was convicted by the learned Judicial Magistrate, First Class, Pathardi, Dist. Ahmednagar (Court No.II) on 6th January, 1996 in Regular Criminal Case No.167 Of 1988 for the offences punishable under Section/s 325, 323 read with 34 of the Indian Penal Code for voluntarily causing hurt to Sripati Gore. Alongwith present applicant, Baban Maruti Gadakh was also convicted by the learned trial court.

[2] Being aggrieved by the said Judgment and Order, both of them, preferred Criminal Appeal before the Court of Sessions, Ahmednagar. Said Criminal Appeal was registered as Criminal Appeal No.8/1996. The learned

Additional Sessions Judge, Ahmednagar *vide* his Judgment and order dated 20th November, 2001 partly allowed said Criminal Appeal. The lower appellate court acquitted Baban Maruti Gadakh for the offences punishable under Section/s 325, 323 read with 34 of the Indian Penal Code. Further the lower appellate court acquitted applicant – Manik for the offence punishable under Section 323 read with 34 of the Indian Penal Code. However confirmed the conviction of applicant Manik for the offence punishable under Section 325 of the Indian Penal Code and maintained the sentence of imprisonment of six months and fine of Rs.500/-

[3] The present Criminal Revision Application is admitted by this court on 21st January, 2002 and present applicant was released on bail after suspending the substantive jail sentence.

[4] Today when the matter was taken up for final hearing, Mr. Babasaheb Wagh, learned counsel submitted an application on behalf of Manik Gadakh [original accused] and Ramdas Shripati Gore [first informant] for compounding the offence under Section 320 of the Code of Criminal Procedure. Application was taken on record. Ramdas is the son of injured Shripati Gore who is dead and being his son, he is the legal representative. Ramadas is also First Informant and he was examined as prosecution witness No.1 in the criminal prosecution against Manik Gadakh.

[5] Offence punishable under Section 325 of the Indian Penal Code is compoundable with permission of the court and at the instance of the person to whom hurt is caused. In the present case, the hurt was caused to Shripati Gore, who is dead. Therefore, Ramdas being legal representative of Shripati is entitle to extend consent for compounding in view of Clause (b) of sub Section 4 of Section 320 of the the Code of Criminal Procedure. In

that view of the matter, son, being his legal representative is entitled to compound the offence.

[6] In the application filed under Section 320 of the Code of Criminal Procedure, it is mentioned that they (Manik Gadakh and Ramdas Gore) are residing in the same locality and in fact, they are neighbour. It is to be noted that, incident had occurred in the year 1988. Much time has already been elapsed and during this period, parties have settled their dispute. Both - Manik Gadakh and Ramdas Gore are present in the court hall. Mr. Babasaheb Wagh, learned counsel has duly identified them. Upon enquiry, both of them have accepted that they have settled their dispute amicably and in fact, they are in relation now.

[7] Looking to the aforesaid fact, this is a fit case where-in the Court should exercise its powers to compound the offence. Accordingly, offence is compounded. Consequently, following order is passed :-

ORDER

(i) The Judgment and order passed by learned Judicial Magistrate, First Class, Pathardi, Dist. Ahmednagar (Court No.II) on 6th January, 1996 in Regular Criminal Case No.167 Of 1988 together with Judgment and Order dated 20th November, 2001 passed by the learned Additional Sessions Judge, Ahmednagar in Criminal Appeal No.8/1996 which are prejudicial to the interest of present applicant - Manik s/o Maruti Gadakh, are hereby quashed and set aside.

(ii) Applicant - Manik s/o Maruti Gadakh is hereby acquitted for the offence punishable under Section 325 of the Indian Penal Code, since the Court has granted permission to compound the offence.

(iii) Criminal Revision Application is allowed and is disposed of accordingly.

Criminal Revision Application allowed.

(V.M. DESHPANDE, J.)