

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 5565 OF 2014

1. Atmaram S/o Chhatrabhuj Kendre

Age : 40 Yrs., Occ. : Agri.,

R/o : Umri, Tq. : Dharur,

Dist. : Beed.

2. Vyankoba S/o Dnyanoba Jadhav

Age : 60 Yrs., Occ. : Agri.,

R/o : Magarwadi, Tq. :

Ambajogai, Dist. : Beed.

..... APPLICANTS

V E R S U S

The State of Maharashtra

..... RESPONDENT

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Mr. S.W.Munde, Advocate for the Applicants.

Mr. V.H.Dighe, A.P.P. for the Respondent - State.

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CORAM : V.M.DESHPANDE, J.

DATE OF JUDGMENT : 12th JANUARY, 2015

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ORAL JUDGMENT :

1. Rule. Rule is made returnable forthwith. By consent of the learned counsel for the applicants and the learned A.P.P. for the State, the Criminal Application is taken up for final hearing.

2. Heard Mr. S.W.Munde, the learned counsel for the applicants and Mr. V.H.Dighe, the learned A.P.P. for the Respondent - State.

3. The crime was registered against Atmaram S/o Chhatrabhuj Kendre, applicant No. 1 on the basis of the F.I.R. lodged by one Vyankoba Dnyanoba Jadhav, applicant No. 2. The crime was registered for the offence punishable u/s 304-A of the Indian Penal Code vide Crime No. 277/2002 with Ambajogai police station, District Beed.

4. The Investigating Officer, after completion of the investigation, has filed charge sheet.

5. In proceedings bearing R.C.C. No. 143/2003, the applicant No. 1 was convicted by the learned Magistrate for

the offence punishable u/s 304-A of the Indian Penal Code and was directed to suffer Simple Imprisonment for 1 year and to pay fine of ₹ 500/- [Rupees Five Hundred only].

6. The applicant No. 1 had preferred Appeal before the learned Sessions Judge, Ambajogai. The same was registered as Regular Criminal Appeal No. 19/2006 and the said Appeal is still pending. During the pendency of the Appeal, an application u/s 320 of the Code of Criminal Procedure was moved by both the applicants for compounding the offence. The said application is at Exh. 13 on the record of the said Appeal. The said application was rejected by the learned Additional Sessions Judge on 26/09/2014 on the ground that the offence punishable u/s 304-A of the Indian Penal Code is not compoundable offence and, therefore, the present Criminal Application.

7. Normally, this Court while exercising its inherent power, shall be slow in exercising its inherent jurisdiction. However, looking to the fact that the applicant No. 1 was bullock-cart owner and the girl died due to the dash of the bullock-cart. Further, it is not the case of the prosecution

that at the relevant time, the applicant No. 1 was under the influence of liquor or any other intoxicant. Further, the applicant No. 2 Vyankoba S/o Dnyanoba Jadhav is present in the Court. He submitted that the applicant No. 1 has given him compensation of ₹ 1,00,000/- [Rupees One Lakh only]. According to applicant No. 2, he wish to maintain cordial relations amongst themselves.

8. In that view of the fact that incident occurred due to dash by bullock-cart and in view of the fact that applicant No. 1 was not under the influence of alcohol, it is my considered view that it is fit case, wherein this Court should exercise its inherent jurisdiction u/s 482 of the Code of Criminal Procedure. Accordingly, the permission is granted to compound the offence i.e. F.I.R. No. 277/2002 and the F.I.R. No. 277/2002 of police station Ambajogai, District Beed is hereby quashed.

9. Needless to mention, in view of the quashing of F.I.R., the subsequent action will follow viz. quashing the proceeding bearing R.C.C. No. 143/2003 and the order dated 20/05/2006 passed by the learned J.M.F.C., Ambajogai in

R.C.C. No. 143/2003 is set aside.

10. With the above observations, Rule is made absolute.

[V.M.DESHPANDE, J.]

KNP/Crim. Apln. 5565.2014 - [J]

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