

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

CRIMINAL WRIT PETITION NO. 1275 OF 2014

1. Karbhari s/o Shahadu Bagul,
Age : 60 years, Occu.: Agril.,
R/o. Galli No. 2, Baijipura,
Tq. & Dist. Aurangabad.
2. Bhaginath s/o Fakira Khajekar,
Age : 47 years, Occu: Labourer,
R/o Annabhau Sathe Nagar,
Waluj, Tq. Gangapur, Dist. Aurangabad. **...Petitioners**

Versus

1. The State of Maharashtra.
2. Shahadu s/o Abba Bagul,
Age : 80 years, Occu: Agril,
R/o. Loni (Bk), Tq. Vaijapur,
Dist. Aurangabad. **...Respondents**

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Shri. Rahul A. Tambe, Advocate for the petitioners
Shri. S. D. Kaldade, APP for respondent/State
Shri. R. V. Gore, Advocate for respondent No. 2
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**CORAM : SMT. SADHANA S. JADHAV, J.
DATED : APRIL 8TH, 2015.**

ORAL JUDGMENT :-

. Heard. Rule. Rule made returnable forthwith with
the consent of parties.

2. The petitioners herein are convicted for offences punishable under Sections 406, 420 read with 34 of the Indian Penal Code, by the learned Judicial Magistrate First Class, Vaijapur, vide judgment and order dated 25th June, 2013 in RCC No. 273 of 2008. Being aggrieved by the said judgment and order, the petitioners herein filed Criminal Appeal No. 10 of 2013, before the Sessions Court at Vaijapur. During pendency of the appeal, the parties had settled the dispute amicably. The victim had agreed to forgive the petitioners. The petitioners had deposited an amount of Rs. 25,000/- in the lower appellate Court at the initial stage since, the compensation awarded was Rs. 1,00,000/-. The respective parties had filed an application seeking permission to compromise the matter. The learned Sessions Judge, Vaijapur vide judgment and order dated 7th October, 2014 had refused to grant permission to compromise the matter since Section 406 is not a compoundable offence under Section 320 of Cr.P.C. Hence, this writ petition.

2. During pendency of this writ petition, a statement was made that the parties would execute the compromise deed and tender the same before the Court. Today, the parties are present before the Court. The respective Counsel have filed

joint pursis in this Court. The said joint pursis is taken on record and marked as Article 'A' for identification. The complainant is about 90 years old and unable to maintain his family. The petitioners in order to clear the stigma of conviction imposed upon them, have decided to compromise the matter. Moreover the parties are close relatives. In view of this, the parties are permitted to compromise the matter.

3. This is a petition under Section 482 of Code of Criminal Procedure (Cr.P.C.). In exercise of the inherent powers criminal proceedings with the aid of Section 320 of Cr.P.C. can be quashed. Pendency of Appeal before the Sessions Court is also a criminal proceeding which can be quashed in the facts and circumstances of a particular case. In the present case, taking into consideration the age of the parties and their relations, it would be necessary to exercise powers under Section 482 of Cr.P.C. Section 320(8) of Cr.P.C. contemplates that the composition of offence shall have an effect of acquittal of the accused. Hence, the accused/petitioners are acquitted of the offences punishable under Section 406 and 420 r/w 34 of the Indian Penal Code. The judgment and order passed by 2nd Joint Judicial Magistrate First Class, Vaijapur in RCC No. 273 of 2009, dt. 25th June, 2013 is hereby quashed and set aside. Their bail

bonds stand cancelled. The amount of Rs. 25,000/- deposited by the petitioners in the lower appellate Court be given in favour of the complainant upon filing a proper application.

Rule is made absolute in above terms.

(SMT. SADHANA S. JADHAV, J.)

sgp