

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.581 OF 1996

RAJESH MAHADEO BHONDGE)...APPELLANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

WITH

CRIMINAL APPLICATION NO.754 OF 2015

IN

CRIMINAL APPEAL NO.581 OF 1996

RAJESH MAHADEO BHONDGE)...APPELLANT

V/s.

THE STATE OF MAHARASHTRA & ANR.)...RESPONDENTS

Mr.Balkrishna D. Joshi, Advocate for the Appellant.

Mrs.S.V.Gajare, APP for the Respondent – State.

Mr.Virendra Pethe, Advocate for Respondent No.2 in Criminal Application No.754 of 2015.

CORAM : ABHAY M. THIPSAY, J.

DATE : 3rd JULY 2015.

P.C. :

1 The applicant / appellant has been convicted of an offence punishable under Section 324 of the Indian Penal Code (IPC) and has been sentenced to suffer Rigorous Imprisonment for two years and to pay a fine of Rs.2,000/-, in default, to suffer Rigorous Imprisonment for 3 months. The appeal filed by the applicant /appellant challenging his conviction and sentence imposed upon him is pending. By this application, the applicant / appellant submits that the dispute between him and the injured / victim has been amicably settled, and that, they desire to compound the offence in question.

2 I have heard Mr.Balkrishna Joshi, the learned counsel for the applicant /appellant. I have also heard respondent no.2 – the victim – who is present in the court in person. By questioning him, I have satisfied myself that the parties have indeed decided to settle their dispute amicably.

3 The offence punishable under Section 324 of the IPC was compoundable with the permission of the court at the time when it was allegedly committed. The position today is that, the said offence is not compoundable. Whether today, therefore, leave to compound the offence can be granted is not clear.

4 The offence has taken place in the year 1994. The sentence imposed upon the applicant / appellant is only of imprisonment for a period of two years. If the facts of the case are taken into consideration, this does not seem to be a case where there should be an insistence on a decision of the appeal on merits, inspite of the fact that the parties have amicably settled their dispute. It is well settled that the inherent powers of this court saved by Section 482 of the Code of Criminal Procedure (Code) are wide enough to permit termination of a prosecution / quashing of criminal proceedings, on the basis of a compromise arrived at by and between the parties, even where the case relates to non-compoundable offences. Considering this, I do not wish to

go deeper into the rather academic legal question as to, whether leave to compound the offence in question can be granted today, though the offence is not compoundable today, keeping in mind that it was compoundable, when it was allegedly committed. This is so, because, such a legal question has not been raised by any of the parties, including the State.

5 Under the circumstances, leave to compound the offence granted.

6 Offence compounded.

7 In view of this, the order of conviction, as recorded by the learned trial Judge and the sentence imposed upon the applicant / appellant by him, is set aside.

8 The applicant / appellant is acquitted. His bail bonds are discharged. Fine, if paid, be refunded to him.

9 In view of this, the present application as well as the appeal stand disposed of in the aforesaid terms.

(ABHAY M. THIPSAY, J.)