

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

910 CRIMINAL APPLICATION NO. 2500 OF 2016
IN CRIMINAL APPEAL NO.602/2014 WITH CRIMINAL APPEAL
NO.602/2014 WITH CRIMINAL APPLICATION NO.2206/2016 IN
CRIMINAL APPEAL NO.602/2014

AADHAR S/O RAGHO PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Applicant/Appellant: Mr. R. S. Shinde
holding for Mr. Bhadgaonkar U. A.

APP for Respondent No.1 State: Mr. A. M. Phule
Advocate for Respondents 2 and 3 : Mr. P. P. Patil

CORAM : A.I.S. CHEEMA, J.

DATE : 04th May, 2016

ORDER:

1. Heard Mr. R. S. Shinde, learned counsel holding for Mr. Bhadgaonkar U. A. for the applicant. He states that Criminal Application No. 2206/2016 is filed for compounding the offence under section 307 of the Indian Penal Code invoking inherent powers of the Court. He submits that compromise purshis has been filed which has been signed by the appellant accused as well as injured-wife and original complainant Pandit Patil. The counsel states that compounding is permissible in view of judgment of the Hon'ble Supreme Court in the case of **Gian Singh V/s State of Punjab and Another**, reported in (2012) 10 SCC 303.

2. The parties are family members and it is claimed that they have arrived at compromise (See Criminal Application No. 2206/2016) and in order to enable the appellant-accused to transfer the property, bail application (Criminal Application No. 2500/2016) is moved.

3. The appellant-accused has been convicted under section 307 of the Indian Penal Code. Section 307 of the Indian Penal Code is not compoundable but in view of the judgment of the Hon'ble Supreme Court in the case of **Gian Singh** (Supra), in certain contingencies, this Court can invoke inherent powers. In the present matter, however, the compromise, on the face of it, shows that the wife has entered into compromise subject to the husband who is in jail transfers two properties in her name and in the name of her son. There is another condition put that original accused shall not enter the village Nikumbh where the wife resides. It clearly shows that the object of compounding is not to maintain cordial relationship. On the face of record, what appears is that as the accused is in jail, an advantage is being taken. At least, that is the feeling I get seeing the documents and hearing the counsel. I do not think that such compromise can be recorded and

acted upon. Consequently, I reject Criminal Application No. 2206/2016.

4. As regards the application for bail, the accused is in jail and it is stated that his earlier bail application was rejected. This bail application which, as per submission of the counsel, is moved to facilitate transfer of property, needs to be rejected as the purpose for which the bail was sought does not subsist in view rejection of compounding application. Hence, I reject Criminal Application No. 2500/2016.

5. It will be more appropriate to expedite the hearing of the Criminal Appeal in which paper book is ready. It is stated that accused is in jail since last three years. It will be more appropriate to finally hear the appeal and in case the parties decide to maintain cordial relations, that can be a different factor while considering the sentence, in case the appeal is not allowed.

6. List the present appeal itself for final hearing on 17.06.2016.

(A.I.S. CHEEMA, J.)

JPC