

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

CRIMINAL APPLICATION NO.5296 OF 2014

Amrut s/o Rajkumar Madje,
Age 23 years, Occu. Education,
R/o Near Vidya-Vikas School,
Opp. Krushnakunj Apartment,
Shri-Nagar, Latur

...Applicant

Versus

1. The State of Maharashtra
2. Renuka d/o Bharat Kadam,
Age 19 years, Occu. Household,
R/o Near Vidya-Vikas School,
Behind Krushnakunj Apartment,
Shri-Nagar, Latur

...Respondents

Mr S.S. Panale, Advocate for applicant
Mr N.T. Bhagat, A.P.P. for respondent No.1
Mr A.P. Piratwad, Advocate for respondent No.2

CORAM : V.K. JADHAV, J.

DATE : 26th July 2016

PER COURT

1. Heard learned Counsel for the applicant, learned A.P.P. for the State and learned Counsel appearing for respondent No.2 – original complainant.
2. By way of present application, the applicant is seeking quashing of the judgment and order of conviction passed by the 7th Judicial Magistrate, First Class, Latur in R.C.C.No.593/2011 dated 9th December 2012, whereby the applicant is convicted for the offence punishable under Section 354 of the Indian Penal Code and sentenced to suffer rigorous imprisonment of two years and also sentenced to pay fine of Rs.500/-, in default of payment of fine, to suffer simple imprisonment of one month.

3. The applicant is seeking quashing of the judgment and order of conviction, as aforesaid on the ground that the matter is amicably settled between the applicant and respondent No.2 - complainant. It is contended that house of the applicant and the house of respondent No.2 are situated in the same locality and the families of applicant and respondent No.2 has cordial relations with each other. Respondent No.2 has married. Even, the applicant has completed his further education and he has passed his post graduate degree in Science. The parties have produced the minutes of compromise, which is taken on record and marked as Exh.'X' for identification. The parties are present in person and they have admitted the minutes of the compromise and their signatures thereon. Thus, the contents of the compromise terms are verified. The respondent No.2 - complainant - Renuka and her mother, both have filed their affidavits wherein it has contended that they have amicably settled the dispute and the complainant - Renuka is now married and the applicant has completed his post graduation in Science. He is repenting for whatever act he has committed.

4. Learned A.P.P., however, submits that the offence alleged against the applicant and the conviction recorded by learned Magistrate under Section 354 of Indian Penal Code squarely falls under the category, as mentioned by the Apex Court in the case of **Narinder Singh and ors. Vs. State of Punjab and anr**, reported in **(2014) 6 SCC 466** and thus, the criminal application is liable to be dismissed.

5. On careful perusal of the aforesaid judgment relied upon by learned A.P.P., most particularly paragraph 29.3, wherein the Apex Court has observed that such a power of quashing of the proceedings or conviction, whatever it may be on the basis of compromise arrived at between the parties is not to be exercised which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society.

6. In a case in hand, while recording the order of conviction, learned Magistrate, in paragraph 9 of the judgment has observed that victim Renuka has deposed before him that when accused and his brother, who is juvenile in conflict with law came to her, with ill intention, caught her hands and tried to pull her. Learned Magistrate accordingly convicted and sentenced the applicant.

7. Applicant has completed his post graduation in Science and is now searching for job. Renuka is now married. I do not think that the facts and circumstances of the present case attracts Clause 29.3 of the case Narinder Vs. State of Punjab and anr. (cited supra). Hence, I proceed to pass the following order:

ORDER

(I) Criminal Application is hereby allowed.

(II) The judgment and order of conviction passed by the 7th Judicial

Magistrate, First Class, Latur in R.C.C.No.593/2011 dated 9th December 2012, thereby sentencing the applicant-accused to suffer rigorous imprisonment of two years and also sentenced to pay fine of Rs.500/-, in default of payment of fine, to suffer simple imprisonment of one month, for the offence punishable under Section 354 of Indian Penal Code, is hereby quashed and set aside.

(III) Applicant - accused Amrut s/o Rajkumar Madje is acquitted for the offence punishable under Section 354 of Indian Penal Code vide R.C.C.No.593/2011. Fine amount, if paid shall be refunded to the applicant.

(IV) In view of above, Criminal Appeal No.20 of 2012 pending before the Court of Sessions Judge, Latur is also disposed of.

8. Criminal Application is accordingly disposed of.

(V.K. JADHAV, J.)

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