

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

**CRIMINAL APPLICATION NO. 5607 OF 2016
APEAL/407/2001**

**MOTILAL KESHAV JADHAV
VERSUS
THE STATE OF MAHARASHTRA**

...
**Advocate for Applicant : Nagargoje Ankush N.
APP for Respondents: Mr.S.P.Tiwari**
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**CORAM : V.L.ACHLIYA,J.
DATE : 20/10/2016**

PER COURT :-

Heard learned counsel for the applicant and learned APP for respondent-State and perused the application.

2] The applicant has moved this application seeking permission to compound the offence punishable under Sections 306 and 498-A of IPC in an appeal which is already heard and finally decided by this Court vide judgment and order dated 9/9/2015.

3] In nutshell, it is the say of applicant that he is maintaining two children from his deceased wife. Due to passage of twenty years and the liability of the children, it was decided by the relatives of the applicant and deceased wife to compound the offence. Accordingly,

the present application is moved.

4] Undisputedly the applicant was tried for committing offences punishable under Sections 306 and 498-A of IPC before the Court of IIAd Hoc Additional Sessions Judge, Jalgaon in Sessions Case No.232/1995. By judgment and order dated 1/10/2001 the learned Additional Sessions Judge convicted the applicant under Section 306 of IPC and sentenced to suffer R.I. for five years and fine of Rs.500/- in default to pay fine, to suffer simple imprisonment for one month, for committing offence under Section 498-A of IPC R.I. for one year. Being aggrieved, the applicant had preferred appeal before this Court which was registered as Criminal Appeal No.407/2001. The appeal was disposed of vide judgment and order dated 9/9/2015 (Coram : M.T.Joshi,J.). The conviction of the applicant was upheld, however, the sentence of R.I. for five years awarded for offence punishable under Section 306 of IPC was modified and reduced to R.I. for one year. So far as sentence awarded under Section 498-A of IPC, the same was maintained. Being aggrieved by the judgment and order passed by this Court, the applicant had preferred SLP(Cri) No.10768/15 which was dismissed by Supreme Court vide order dated 29/2/2016 by observing that no ground made out for interference in exercise of jurisdiction under Article 136 of Constitution of India. The review Petition filed by applicant also

dismissed vide order dated 1/9/2016 passed by Apex Court.

5] Without going into merits of the application as to whether any case is made out for compounding the offences, the question falls for consideration is whether such application can at all be entertained by this Court. At first place, the offences under Sections 306 and 498-A of IPC not falls in the category of the offences which can be compounded with or without the permission of the Court. Apart from this, as provided under Section 320 of Cr.P.C. the offences which are enumerated in Table-I and Table-II can be compounded with or without permission as the case may be during pendency of proceeding. By virtue of Sub-section 5 of Section 320 of Cr.P.C. the appellate Court can also entertain the request for compounding of offence during pendency of appeal. Undisputedly there is no appeal pending before this Court. In absence of any statutory powers vested with the Court to entertain the application, application is not maintainable in law. In this view alone, the application is liable to be rejected. Accordingly the application is rejected as not maintainable.

(V.L.ACHLIYA,J.)

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