

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

CRIMINAL WRIT PETITION NO. 1576 OF 2015

1. Vithal s/o Bhanudas Bhandwalkar

Age : 59 Yrs., Occ. Agril.,

R/o : Watephal, Tq. Paranda,

Dist : Osmanabad.

2. Kisan s/o Bhanudas Bhandwalkar

Age : 53 Yrs., Occ. Agril.,

R/o : Watephal, Tq. Paranda,

Dist : Osmanabad.

3. Amol s/o Kisan Bhandwalkar

Age : 26 Yrs., Occ. Agril.,

R/o : Watephal, Tq. Paranda,

Dist : Osmanabad.

.... PETITIONERS

V E R S U S

1. The State of Maharashtra

2. Lahu Navnath Bidve

Age : 53 Yrs., Occ. Agril.,

R/o : Watephal, Tq. Paranda,

Dist : Osmanabad.

.... RESPONDENTS

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Mr. A.S.More, Advocate for Petitioners.

Mr. R.V.Dasalkar, A.P.P. for R.No. 1 – State.

Mr. S.B.Jadhav, Advocate for R.No. 2.

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CORAM : M.T.JOSHI, J.

DATE OF JUDGMENT : 5th FEBRUARY, 2016

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ORAL JUDGMENT :

1. Rule. Rule is made returnable forthwith. Heard finally by the consent of the learned counsel for the parties.

2. Heard all the parties.

3. All the present petitioners were convicted by the learned Judicial Magistrate First Class, Paranda in R.C.C. No. 117/2008 on 03/04/2013 for the offence punishable u/s 326 read with 34 of the Indian Penal Code. Each of them were sentenced to suffer rigorous imprisonment for eighteen months and to pay fine of ₹ 5,000/- [Rupees Five Thousand]. They were acquitted of the offences punishable u/ss 504 and 506 of the Indian Penal Code.

4. The petitioners, therefore, filed Criminal Appeal No. 9/2014 in the Sessions Court at Bhoom. During the pendency of the Appeal, the appellants as well as the original claimant Lahu Navnath Bidve – present respondent No. 2, filed an application at Exh. 17. They communicated the Court that the appellants as well as the complainant are residing in the adjoining villages. They had decided to mutually settle the dispute due to the intervention of the reputed persons of the villages and that they sought compounding of the offences. The learned Sessions Judge had dismissed the application, as the offence punishable u/s 326 of the Indian Penal Code is not compoundable. Hence, the present Writ Petition.

5. Upon hearing all the sides and taking into consideration the deposition of P.W. 6 Dr. Ajit Pokle, as has been reproduced by the learned Judicial Magistrate First Class in the Judgment, it would show that the complainant has suffered fracture to the skull. According to the prosecution out of the present 3 petitioners, petitioner No. 2 Kisan had hit the head of respondent No. 2, the complainant, by stone which was wrapped in the towel.

6. The motive of the offence would show that in a sudden heated exchanges, fight has started.

7. Considering all these materials on record, in my view, the offence need to be compounded.

8. In the circumstances, I pass the following order.

ORDER

[I] Present Criminal Writ Petition is hereby allowed.

[II] The offence punishable u/s 326 read with 34 of the Indian Penal code, for which the present petitioners were convicted by the learned Judicial Magistrate First Class, Paranda in R.C.C. No. 117/2008 is hereby compounded.

[III] In the circumstances, Criminal Appeal No. 9/2014 be disposed of by the learned Sessions Judge, Bhoom in terms of the above order.

[IV] Rule is accordingly made absolute in the above terms.

[M.T.JOSHI, J.]

