

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.498 OF 2018**

Hanumant Mahadev Jadhav and ors. : Applicants.
Versus
State of Maharashtra and ors. : Respondents.

Mr. Nagraj S Shinde for the Applicants.
Mrs. A S Pai, Addl. PP for the Respondent/State.
Mr. S T Bhosale for the Respondent Nos.2 to 4.

**CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.**
DATE : 28th JUNE 2018

P.C.

1 The above Criminal Application has been filed for setting aside the judgment and order dated 20/03/2018 passed by the learned JMFC, Barshi in Regular Criminal Case No.84 of 2005 convicting the Applicants for the offences punishable under Sections 452, 325, 323, r/w 34 of the Indian Penal Code. The Applicants are in Appeal against their conviction before the Sessions Court, Barshi, Dist. Solapur.

2 In view of the conviction of the Applicants, the question that arises is whether the powers under Section 482 of the Criminal Procedure Code can be exercised for setting aside the conviction of the Applicants in view of the settlement between the parties.

3 The said issue is no more res-integra and is covered by the judgment of the Division Bench of this Court reported in 2006 CriLJ 4591 in

the matter of *Kiran Tulshiram Ingale vs. Anupama P Gaikwad and ors.* as the judgment of the Full Bench of this court reported in *2008(2) MhLJ 856* in the matter of *Abasaheb Yadav Honmane and anr. vs. The State of Maharashtra.* Before the Full Bench of this Court the question which was formulated and which has the relevance in the context of the present Criminal Application, was to the following effect :- “Whether such a power could be exercised at the trial stage or at the appellate stage”. The Full Bench answered the said issue by holding that the powers to compound can be exercised at the trial or even at the appellate stage subject to satisfaction of the conditions postulated by the Legislature under Section 320 of the Code. This Bench also in an identical fact situation had set aside the conviction in view of the settlement arrived at between the parties post the conviction by Order dated 22nd June 2018 in *Criminal Application No.1183 of 2016* in the matter of *Vikas Subhash Kadam v/s. Vaibhavi Vikas Kadam & anr.*

4 The first informant i.e. the Respondent No.2 – Shankar Jadhav is personally present in Court. He is identified by the learned counsel Shri S T Bhosale. He is also identified by his Aadhar Card bearing No.277657125621. When put in the box and queried, he accepts the factum of the settlement arrived between him and the Applicants.

5 The Applicant No.1 – Hanumant Jadhav is personally present in

Court. He is identified by the learned counsel Shri Nagraj Shinde. He is also identified by his Aadhar Card bearing No.414828503731. When put in the box and queried, he accepts the factum of the settlement arrived between Applicants and the Respondent No.2.

6 It seems that the parties are closely related. The first informant is the brother of the Applicant No.1 and the Applicant No.3 and the dispute had arisen between the parties vis-a-vis a plot of land.

7 Be that as it may, in view of the legal position as enunciated herein above, as also having regard to the fact that the parties have settled their dispute, there is no impediment in exercising the powers under Section 482 of the Criminal Procedure Code to quash and set aside the conviction of the Applicants. The above Criminal Application is therefore required to be allowed and is accordingly allowed in terms of prayer clause (b). The above Criminal Application is accordingly disposed of.

8 All concerned parties to act upon an ordinary order of the instant order duly authenticated by the Court Sheristedar/Associate.

[REVATI MOHITE DERE, J]

[R.M.SAVANT, J]