

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.257 OF 2019

Shri Bellappa s/o Digambar Limbhare,
Age-35 years, Occu:Agri.,
R/o-Appawadi, Mitmita,
Tq. & Dist-Aurangabad

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
- 2) Asha w/o Rudrappa Limbhare,
Age-35 years, Occu:Agril.,
R/o-Appawadi, Mitmita,
Tq. & Dist-Aurangabad.

...RESPONDENTS

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Mr.Kakasaheb B. Jadhav Advocate for Petitioner.
Mr.S.Y. Mahajan, A.P.P. for Respondent No.1.
Mr.Shivaji N. Dudhate Advocate for Respondent
No.2

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CORAM: V.M. DESHPANDE, J.

DATE : 13TH MARCH, 2019

JUDGMENT :

1. Rule. Rule made returnable forthwith and
heard finally with the consent of the learned

counsel for the parties. Heard Shri K.B. Jadhav, the learned counsel for the Petitioner, Shri S.Y. Mahajan, the learned Additional Public Prosecutor for the State and Shri S.N. Dudhate, the learned counsel for Respondent No.2.

2. By the present Petition, the Petitioner is challenging the order passed by learned Additional Sessions Judge-2, Aurangabad dated 26th September, 2011, below Exhibit-18 in Criminal Appeal No.128 of 2011, whereby the learned lower appellate Court has rejected the application for permission to compromise the matter.

3. Prosecution was initiated against the present Petitioner on the report lodged by Respondent No.2 - Asha Limbhare. The Investigating Officer, after investigation of the crime, filed charge-sheet in the Court of learned Magistrate and the case was registered against the present Petitioner as R.C.C. No.808 of 2010. The charge

was framed against the Petitioner for the offence punishable under Section 447, 324, 506 of the Indian Penal Code. The learned Magistrate, on 28th April, 2011, after full-fledged trial, found the Petitioner guilty of committing offence under Section 324, 506(II) of the Indian Penal Code and accordingly he was directed to suffer jail sentence for six months.

4. The Petitioner, thereafter, preferred an appeal before the Sessions Court, challenging his conviction. The said appeal is registered as Criminal Appeal No.128 of 2011. During the pendency of the appeal, the Petitioner as well as Respondent No.2, the original complainant, filed an application below Exhibit-18 for compromising the matter. The said application is rejected.

5. From the perusal of the Judgment delivered by the learned Magistrate, he found injuries on both the hands of Asha and on her

right leg. It is to be observed here that the Petitioner and Respondent No.2 are close relatives and the request was made to compromise, for leading peaceful life in future.

6. The learned Court below, has rejected the application for compromise, on the ground that the offence is not compoundable.

7. True it is, that the offence is not compoundable, however, it is noticed that the Petitioner and Respondent No.2, they are very close relatives. Further, the injuries were also found to be simple in nature. In order to bury all the disputes and in order that the parties to lead a peaceful life, in my view, this Court can exercise its jurisdiction to set aside the order passed by the lower appellate Court and permit the parties to compound the offence. Resultantly, I pass following order:-

O R D E R

(I) The Writ Petition is allowed.

(II) The order passed by Additional Sessions Judge-2, Aurangabad, dated 26th September, 2011 passed below Exhibit-18 in Criminal Appeal No.128 of 2011, is hereby quashed and set aside.

(III) Application Exhibit-18 filed by the present Petitioner and Respondent No.2 in Criminal Appeal No.128 of 2011, before the Additional Sessions Judge-2, Aurangabad, is hereby granted.

(IV) Consequently, the Judgment and order of conviction passed by the learned Judicial Magistrate First Class (12th Court), Aurangabad, in R.C.C. No.808 of 2010, convicting and sentencing the Petitioner for the

offence punishable under Section 324,
506(II) of the Indian Penal Code, is
hereby quashed and set aside.

(V) Rule made absolute in above terms.
The Writ Petition stands disposed of,
accordingly.

[V.M. DESHPANDE, J.]