

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO.245 OF 2005

- 1) Baban s/o Raghuji Shegade,
Age-45 years, Occu:Agri.,
- 2) Vishnu s/o Dattu Nimbalkar,
Age-32 years, Occu:Agri.,
- 3) Abhimanyu s/o Dattu Nimbalkar,
Age-28 years, Occu:Agri.,
- 4) Kisan s/o Raghuji Shegade,
Age-34 years, Occu:Agri.,
- 5) Satish s/o Dattu Nimbalkar,
Age-22 years, Occu:Agri.,
- 6) Hanuman s/o Dattu Nimbalkar,
Age-33 years, Occu:Agri.,
- 7) Dattu s/o Balwant Nimbalkar,
Age-58 years, Occu:Agri.,

All R/o- Shegud, Tq-Karjat,
Dist-Ahmednagar.

...APPLICANTS

VERSUS

The State of Maharashtra

...RESPONDENT

...
None present for Applicants.
Mr.A.A. Jagatkar, A.P.P. for Respondent.
...

CORAM: V.M. DESHPANDE, J.

DATE : 28TH MARCH, 2019

ORAL JUDGMENT :

1. Counsel for the Applicants absent. Heard Shri A.A. Jagatkar, the learned Additional Public Prosecutor for the State.

2. The present Revision is directed against the Judgment and order passed by learned Additional Sessions Judge, Ahmednagar on 4th August, 2005 in Criminal Appeal No.4 of 2002, whereby the appeal filed on behalf of the Applicants was dismissed, thereby the Judgment and order of conviction passed by the learned Ist Ad-hoc Assistant Sessions Judge, Ahmednagar in Sessions Case No.13 of 1998 convicting the Applicants for the offence punishable under

Section 147, 148, Section 325 read with Section 149 of the Indian Penal Code, was confirmed.

3. There was a counter case also and in the counter case lodged on behalf of the present Applicants, the accused therein were also convicted by the Court below, and therefore, they preferred an appeal i.e. Criminal Appeal No.5 of 2002. A purshis was moved in the said Criminal Appeal seeking permission of the Court to compound the offence, since the offence for which the accused persons were convicted, was compoundable with the permission of the Court. The learned lower appellate Court in Criminal Appeal No.5 of 2002, granted permission to compound the case and thereby acquitted the accused therein.

4. However, in the Criminal Appeal No.4 of 2002 filed on behalf of the present Applicants, the learned Judge of the Court below refused to

grant permission to compound the offence, on the ground that the Judgment was already dictated. Consequently, their appeal was dismissed, giving rise to the present Revision Application.

5. This Revision was listed before this Court on 22nd August, 2005 and this Court (CORAM: S.P. KUKDAY, J.) issued the Rule and granted stay in favour of the present Applicants.

6. Record shows that the present Applicants, the injured person and the witnesses, are all resident of same village. They, in order to lead their life in future happily, reached to the amicable settlement and submitted an application for compounding the offence before the Court, since at the relevant time, the said offence was compoundable with the permission of the Court. Since in the counter case the accused therein are already acquitted by granting permission to

compound the offence, in my view, it would be travesty of the justice if such permission is not given in the present case, especially when the parties have already amicably settled their dispute in order to lead the peaceful life.

7. During the pendency of the present Revision, no untoward incident has occurred, which shows that compromise was not sham one but it was real in nature. In that view of the matter, I pass the following order:-

O R D E R

(I) Pursing Exhibit-30 filed in Criminal Appeal No.4 of 2002 is hereby accepted. The permission is granted to compound the offence.

(II) In view of the compromise reached,

the case is compounded under Section 320 of the Code of Criminal Procedure, and the Applicants, who are the accused in Criminal Appeal No.4 of 2002, stand acquitted for the offences for which they were convicted.

(III) Consequently, the Revision is allowed, by setting aside the Judgments and orders of convictions passed against them by both the Courts below, by observing that the matter stands compounded.

(IV) Rule is made absolute in above terms.

[V.M. DESHPANDE, J.]