

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

909 CRIMINAL APPEAL NO.600 OF 2003

1. Suryakant s/o. Achyutrao Jogdand
Age: 21 years, Occu.: Agriculture.
2. Prabhu s/o Pandharinath Sonwane
Age: 52 years, Occu.: Agriculture.
3. Anurath s/o Ramkishan Jogdand
Age: 21 years, Occu.: Agriculture.
4. Subhash s/o. Govind Jogdand
Age: 52 years, Occu.: Agriculture.
5. Bibishan s/o. Tukaram Jogdand
Age: 30 years, Occu.: Agriculture.
6. Ram s/o. Manohar Jogdand
Age: 30 years, Occu.: Agriculture.
7. Baliram s/o. Pandhari Sonwane
Age: 37 years, Occu.: Agriculture.
8. Bhagirath s/o. Smbhaji Sonwane
Age: 27 years, Occu.: Agriculture
9. Sanjay s/o. Uttamrao Ban.
Age: 26 years, Occu.: Agriculture.
10. Rajjak s/o. Sahajakhan Pathan
Age: 45 years, Occu.: Agriculture.
11. Babru @ Baban s/o. Pandhari Sonwane
Age: 37 years, Occu.: Agriculture.
12. Sudam s/o. Tukaram Jogdand
Age: 34 years, Occu.: Agriculture.
13. Ayub s/o. Rajjak Pathan
Age: 21 years, Occ.: Agriculture.
14. Chandpasha s/o. Rajakhan Pathan
Age: 37 years, Occu.: Agriculture.

15. Shivaji Manohar Jogdand
Age: 32 years, Occu.: Agriculture.

16. Vijaykumar s/o. Uttmrao Ban.
Age: 22 years, Occu.: Agriculture.

All resident of village Dighol-
Deshpande, Taluka Renapur,
Dist.Latur.

..Appellants

VERSUS

. The State of Maharashtra

..Respondent

...
WITH

**CRIMINAL APPLICATION NO.3383 OF 2019
IN CRIMINAL APPEAL NO.600 OF 2003**

1. Suryakant s/o. Achyutrao Jogdand
Age: 37 years, Occu.: Agril.

2. Prabhu s/o Pandharinath Sonwane
Age: 68 years, Occu.: Agril.

3. Anurath s/o Ramkishan Jogdand
Age: 37 years, Occu.: Agril.

4. Subhash s/o. Govind Jogdand
Age: 68 years, Occu.: Agril.

5. Bibishan s/o. Tukaram Jogdand
Age: 46 years, Occu.: Agril.

6. Ram s/o. Manohar Jogdand
Age: 46 years, Occu.: Agril.

7. Baliram s/o. Pandhari Sonwane
Age: 53 years, Occu.: Agril.

8. Bhagirath s/o. Sambhaji Sonwane
Age: 43 years, Occu.: Agril.

9. Sanjay s/o. Uttamrao Ban.
Age: 42 years, Occu.: Agril.

10. Rajjak s/o. Sahajakhan Pathan
Age: 61 years, Occu.: Agril.
11. Babru @ Baban s/o. Pandhari Sonwane
Age: 53 years, Occu.: Agril.
12. Sudam s/o. Tukaram Jogdand
Age: 50 years, Occu.: Agril.
13. Ayub s/o. Rajjak Pathan
Age: 37 years, Occ.: Agril.
14. Chandpasha s/o. Rajakhan Pathan
Age: 53 years, Occu.: Agril.
15. Shivaji Manohar Jogdand
Age: 48 years, Occu.: Agril.
16. Vijaykumar s/o. Uttamrao Ban.
Age: 38 years, Occu.: Agril.

All R/o.Village Dighol-Deshpande,
Taluka Renapur, Dist.Latur.

..Applicants

VERSUS

1. The State of Maharashtra
2. Bharat s/o. Kondiba Randive
Age: 55 years, Occu.: Labour
R/o. Village Dighol-Deshpande,
Tq.Renapur, District Latur.

..Respondents

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Advocate for Appellants - Applicants : Shri Eknath P. Sawant
APP for Respondent State : Shri A.P.Basarkar
Advocate for Respondent No.2 (Cri.Appln.3383 of 2019) :
Shri S.P.Kausalye
...

CORAM : P.R.BORA, J.
DATE: 15th October , 2019

ORAL JUDGMENT:-

1. The appellants in Criminal Appeal No.600 of 2003 have preferred Criminal Application No.3383 of 2019 seeking compounding of the offences for which they have been convicted by the Trial Court and to acquit them of the said offences.

2. The appellants were prosecuted in Special Case No.1 of 2001 for the offences punishable under Sections 147, 148, 323, 324, 294, 427, 504, 506 r/w Section 149 of the Indian Penal Code (IPC) as well as under Section 3(1)(10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989 (hereinafter referred to as 'the Atrocities Act'). The Crime came to be registered against the appellants on a report lodged by respondent No.2 in Criminal Application No.3383 of 2019, namely Bharat Kondiba Randive. The Trial Court vide the impugned Judgment and order dated 31.07.2003 acquitted the appellants of the offences punishable under Sections 148, 294, 427, 506 read with Section 149 of the IPC as well as of the offence under Section 3(1)(10) of the Atrocities Act. The Trial Court, however, has convicted the appellants for the offences punishable under Sections 147 and 323 read with Section 149 of the IPC and under Section 324 read with Section 149 of the IPC as well as under Section 504 read with Section 149 of the IPC. The maximum

sentence imposed upon the appellants is for the offence under Section 324 read with Section 149 of the IPC i.e. rigorous imprisonment for one year and to pay fine of Rs.500/- each, in default to suffer rigorous imprisonment for one month. The sentence imposed for all these offences were directed to run concurrently and as such it can be safely said that maximum sentence which the appellants were liable to undergo was rigorous imprisonment for one year and to pay fine of Rs.500/- each.

3. In the Criminal Application No.3383 of 2019, it is the contention of the appellants that by passage of time, the dispute between the informant and the appellants has got resolved and now the informant has decided to amicably settle the dispute and does not intend that the order passed against the appellants shall be executed and the appellants shall suffer the rigorous imprisonment. In the circumstances, the aforesaid application has been filed by the appellants seeking compounding of the offences allegedly proved against them and to acquit them all of the said offences in pursuance of the compromise arrived at between the parties.

4. The original informant is present before the Court and the

accused are also present before the Court. They admit the contents of the application.

5. Advocate Shri S.P.Kausalye caused appearance for the informant Bharat Kondiba Randive. The learned counsel has tendered across the bar the affidavit of informant Bharat wherein it is contended that the dispute between him and the appellants - accused has been resolved and he does not intend to go ahead with the matter. The Vakalatnama and the affidavit are taken on record.

6. From the contents of the application as well as the affidavit filed by the original informant Bharat there has remained no doubt that the parties have now arrived at amicable settlement and informant is now not desiring that the sentence imposed upon the appellants shall be executed. In the circumstances, the aforesaid application has been filed for compounding of the offences and for consequential acquittal of the appellants of the offences for which they are convicted by the Trial Court.

7 Though, it has been sought to be contended by Shri Sawant, learned counsel for the appellants that at the relevant time the offence punishable under Section 324 of the IPC was

compoundable, the position as on today would prevail. In the circumstances, request for compounding of the offence punishable under Section 324 read with 149 of the IPC cannot be accepted. In so far as other offences are concerned, the compounding of the said offences is permissible and as such necessary orders can be certainly passed in relation to the said offences.

8. The learned counsel for the appellants, in the circumstances, has further contended that if compounding is not permissible, the fact that the dispute is now resolved as well as the fact that the reason for giving rise for prosecution occurred way back in the year 2000 i.e. nineteen years back, the factum of compromise shall be considered as mitigating circumstance and in the circumstances the appellants be released on the period of imprisonment already undergone by them for the offences proved against them.

9. The learned counsel for the informant does not have any objection, if such an order is passed.

10. In view of the submissions so made, the following order is passed:-

ORDER

I) The offences punishable under Sections 147 and 323 read with Section 149 of the IPC and the offence punishable under Section 504 read with Section 149 of the IPC are permitted to be compounded. The conviction awarded for the aforesaid offences by the Trial Court is therefore set aside and the accused stand acquitted of the said offences.

II) In so far as the offence punishable under Section 324 read with Section 149 of the IPC is concerned, the conviction awarded by the Trial Court though is maintained, the sentence is modified to the extent of period of imprisonment already undergone by the appellants with fine of Rs.500/- each, which they have already deposited before the Trial Court.

III) Criminal Application No.3383 of 2019 as well as Criminal Appeal No.600 of 2003 are partly allowed in the aforesaid terms.

(P.R.BORA)
JUDGE

SPT