

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION [APPA] NO.898 OF 2019

IN

CRIMINAL APPEAL NO.356 OF 2007

[Abdul Razik @ Raju s/o Abdul Rashid and others .vs. The State of Maharashtra and applicant-original complainant]

WITH

CRIMINAL APPLICATION [APPA] NO.899 OF 2019

IN

CRIMINAL APPEAL NO.366 OF 2007

[Mohd. Ansar s/o Altaf Hussain and one .vs. The State of Maharashtra and applicant-original complainant]

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Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

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Court's or Judge's orders

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Shri Anil Mardikar, Senior Advocate with Shri S.G. Joshi, Advocate for appellants,

Shri V.P. Maldhure, APP for respondent-State,

Shri N.R. Tekade, Advocate for Applicant-original complainant.

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CORAM : MRS. SWAPNA JOSHI, J.

DATED : OCTOBER 18, 2019.

1] Heard Shri Anil Mardikar, the learned Senior Advocate for the appellants, Shri V.P. Maldhure, the learned Additional Public Prosecutor for the respondent-State and Shri N.R. Tekade, the learned Advocate for the applicant-original complainant. Perused the applications filed by appellants-accused.

2] The appellants no.1 to 7, who are accused nos.1 to 4 & 6 and 5 & 7 respectively in Sessions Trial No.196/2004 are present in the court, so also the victim i.e. original complainant Kuldeepsingh s/o Kurpalsingh Rahul is also present in the court.

Both the sides submit that they have arrived at settlement and therefore Crime No.118/2004 may be compounded. The learned advocates identify the appellants and the complainant present in the court. They all identify their signatures on the applications.

3] The appellants have preferred these appeals against the judgment and order passed by the learned Adhoc Additional Sessions Judge-1, Amravati in Sessions Trial No.196/2004 on 3.8.2007 whereby the appellants are acquitted by the learned Ad-hoc Additional Sessions Judge-1, Amravati in Sessions Trial No.196/2004 of the offences punishable under Sections 147, 148 and 307 read with Section 149 of the Indian Penal Code and under Section 4/25 of the Arms Act. However, they are convicted for commission of an offence punishable under Section 324 read with Section 34 of the Indian Penal Code and are sentenced to suffer rigorous imprisonment for one year each and to pay a fine of Rs.500/- each, in default to suffer rigorous imprisonment for one month each. These appeals were admitted and the sentence was suspended by this court during the pendency of the present appeals.

4] Now both the sides requested for compounding of the offence punishable under Section 324 read with Section 34 of the Indian Penal Code. Both the parties have mutually resolved their dispute owing to their improved relations. It is submitted that the appellants and the complainant are the resident of the same city and therefore they have settled their dispute by mutual understanding.

5] In *Criminal Appeal No.1343/2008 arising out of Special Leave Petition (CRL) No.3887/2008 (MD. Abdul Sufan Laskar and others .vs. State of Assam)*, the Hon'ble Apex Court has allowed compounding of the offence punishable under

Section 324 of the Indian Penal Code. It was held that as the offence has been committed prior to the amendment of the Code of Criminal Procedure (Amendment) Act, 2005 (Act 25 of 2005) and therefore the Act 25 of 2005 has no application. In that case, the incident had taken place on 15.6.1995 i.e. prior to the amendment. The aforesaid case law is applicable to the facts and circumstances of the present case as in the instant case the alleged incident had taken place on 15.6.2004. In view thereof, the aforesaid case law is applicable to the facts of the present case.

6] In *2019 ALL SCR (Cri) 270 (Mohd. Ibrahim .vs. State of Karnataka and others)*, the Hon'ble Apex Court has held that with the passage of time, the relations between the accused and the complainant have become cordial and the parties are closely related to each other and the families of the accused and the complainant participate in the functions of each other and now the accused are old persons and are suffering from various health problems, it is conceded by the deponent that he does not have a desire to make the accused undergo the remaining sentence and therefore the compounding of the offence was allowed. This court in Criminal Writ Petition No.257/2019 at Aurangabad Bench decided on 13.3.2019 in similar circumstances has allowed the application for compounding of the offence punishable under Section 324 of the Indian Penal Code.

7] In the instant case also the applicant-original complainant and the appellants are from the same city and they have decided to put an end to the dispute as such. Therefore, in view of the facts and circumstances of the case, the following order is passed :

ORDER

1] The applications are allowed.

2] The judgment and order dated 3.8.2007 passed by the learned Adhoc Additional Sessions Judge-1, Amravati in Sessions Trial No.196/2004 is hereby quashed and set aside.

3] In view of aforesaid order, consequently **Criminal Appeal Nos.356/2007 and 366/2007 also stand disposed of.**

JUDGE