

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE
CRIMINAL APPEAL NO.981 OF 2003**

State of Maharashtra)....Appellant

V/s.

Prabhakar Pandurang Dhuri & Ors.)....Respondents

Ms.Pallavi Dabholkar APP for appellant.

Mr.A.S.Khandeparkar a/w Mr.Rajdeep Gawde i/by M/s.Khandeparkar & Associates for respondent nos.1 to 4.

[Mr.Sambhaji Patil-P.C.20, Kudal Police station, Sindhudurg present].

[Mr.Prabhakar Dhuri-respondent no.1 and Ms.Vijaya S.Dhuri for respondent no.3 present].

CORAM : K.R.SHRIRAM,J

DATE : 22.1.2020

P.C. :-

1. Mr.Khandeparkar for respondent nos.1 to 4 states that accused nos.1 & 3 are present in Court and identifies them.

Mr.Khandeparkar states that the original complainant Bhalchandra Keshav Warang and the accused/respondents have decided to put an end to the dispute as it is almost 22 years old. Mr.Khandeparkar states that complainant also is about 75 years old and due to general debility, has not been able to come to court.

2. Learned APP Ms.Dabholkar states her instructions are also that parties have decided to settle the matter and one of the charge which is under Section 325 of Indian Penal Code is compoundable. Learned APP tenders an affidavit filed by original complainant Bhalchandra Keshav Warang affirmed on 21.1.2020 before the

Assistant Superintendent, Civil Court, Kudal. Learned APP states that this was brought to her by Constable Sambhaji Patil, PC-20, Kudal Police station, Sindhudurg. Mr. Patil states in Marathi to the court that this affidavit was given to him by P.I. Kore, Kudal police station, in-charge. The affidavit is taken on record and marked 'X' for identification. For ease of reference, consent terms is scanned and reproduced as under :-

Coram :- Shri K. R. Shiruram J
 Date :- 22/11/2020
 (T. J. Kore)
 22/11/2020

IN THE COURT OF JUDICATURE AT BOMBAY
 DISTRICT SINDHUDURG
 CRIMINAL APPELLATE JURISDICTION
 CRIMINAL APPEAL NO. 581 OF 2003
 State of Maharashtra ... Appellant
 Versus
 Prabhakar Pandurang Dhuri & Other ... Respondents

I, Bhakhandra, Constable, Adult of Indian Inhabitant, resident of village, Tasoli, Tal. Kudal, District Sindhudurg do hereby solemnly affirm and state as under:-

1. I state that I had lodged a First Information Report on 15th October 1998 against the Respondents herein alleging offence u/s 304(2), 447, 404, 408-II & 34 of I.P.C. with sexual harassment which was registered vide C.R. No. 1027/98. In said case had resulted in acquittal of the above Respondents u/s 447, 404, 408-II & 34 of I.P.C. However, the Respondents were convicted by the Learned J.V.C. Kudal on 14th February 2002 u/s 304, 404 & 408 of I.P.C.
2. The Respondents preferred an appeal before the Learned Sessions Judge, Sindhudurg on 11th March 2002 being Criminal Appeal No. 8 of 2002. By its judgment and order dated 14th February 2003, the Learned Sessions Judge has allowed the appeal and acquitted all the Respondents. I am aware that the State Of Maharashtra has filed the

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above appeal No. 881 of 2003 before this Honorable Court, earlier, there were dispute between my family and the Respondents family in Civil Court as well as Revenue Court. However, all the litigations between us have come to an end and we have no grievance of any nature against each other.

3. I state that all of us have become of advanced aged. We are happily residing with good relations. Therefore, we do not have any grievance whatsoever and wish that even this Appeal be put and and to I do not desire that the state Govt. Should persevere this Appeal as we have amicably settled the dispute.

The contents above are true and correct.

Solemnly affirmed at Kudal)

Dated this 21 st day of January 2020)



[Signature]
(Before me)

Identified by me

[Signature]

श्री. विमला म. पटेल

MMH/1206/1819



Witnesses Affirmed before me by *[Signature]* *[Signature]*
who is identified before me by *[Signature]* *[Signature]*
 whom I personally know *[Signature]* *[Signature]*
 Dated this 21 st day of 19 January, 2020

[Signature]
Notary Public
Kudal

श्री. विमला म. पटेल
का. अपील
का. अपील, कुदल

3. I have to also note that this is an appeal against acquittal and therefore, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to the accused under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless they are proved guilty by a competent court of law. Secondly, the accused having secured their acquittal, the presumption of their innocence is further reinforced, reaffirmed and strengthened by the trial court.

4. Learned APP states that in view of this affidavit, the State does not wish to prosecute the appeal and the court can dismiss the appeal.

5. Appeal accordingly dismissed.

(K.R.SHRIRAM,J)