

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

CRIMINAL APPLICATION (APL) NO.218/2020

Mohd. Gaus Mohd. Shakur

..VS..

**State of Mah., thr. PSO Pophali, Tahsil Umarkhed, District Yavatmal and
anr**

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

Court's or Judge's Order

Shri V.R.Thote, Counsel for the Applicant.

Shri N.S.Rao, Addl.P.P. for the State.

**CORAM : V.M.DESHPANDE &
ANIL S.KILOR, JJ.**

DATED : DECEMBER 8, 2020.

1. Heard learned counsel Shri V.R.Thote for the applicant.
2. By filing this application under Section 482 of the Code of Criminal Procedure, the applicant is challenging judgment and order of conviction dated 19.8.2014 passed by learned Judicial Magistrate First Class at Umarkhed in Regular Criminal Case No.190/2011. By the said judgment and order of conviction, learned Magistrate convicted the applicant for offence punishable under Section 354 of the Indian Penal Code and directed to suffer one year rigorous imprisonment and fine of Rs.1000/-.
3. Thereafter, the applicant filed an appeal under Section 374 of the Code of Criminal Procedure challenging the said judgment and order of conviction. The said appeal

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is registered as Criminal Appeal No.30/2014 and is pending on the file of learned Additional Sessions Judge.

4. The applicant is submitting before this Court that during pendency of the criminal appeal, complainant/victim (non-applicant No.2) entered into a compromise with the applicant and, therefore, the present application is filed under Section 482 of the Code of Criminal Procedure for quashing of the judgment and order of conviction passed by learned Magistrate.

5. Filing of application under Section 482 of the Code of Criminal Procedure, during the pendency of appeal, that the matter is compromised, is maintainable. However, merely because the application is maintainable, that alone cannot be ground for this Court to accept the application.

6. It shall always be the duty of the Court, being custodian of law, to apply its mind judiciously to the given set of facts and especially when charge is duly proved by the prosecution. If compromise, as stated in the application, does not appeal to conscious of the Court looking to seriousness of allegations made, the Court may not give the stamp of its approval to the compromise, though application under Section 482 is maintainable.

7. Having perused judgment delivered by learned Magistrate which is placed on record, spot panchnama (Exhibit 24), and medical certificate given by Medical Officer regarding injury suffered by the victim on her person, we are of view that this is not a case wherein this Court should give

its stamp of approval to the compromise.

8. At this stage, learned counsel Shri V.R.Thote for the applicant submits that he wishes to withdraw the present application.

9. Since the appeal is pending before Appellate Court, we grant permission to withdraw the present application.

10. The criminal application is dismissed and disposed of as withdrawn.

JUDGE

JUDGE

!! BRW !!

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