

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

MISC. CRIMINAL APPLICATION NO.306/2022

IN

CRIMINAL REVISION APPLICATION NO.60/2022

Sunny @ Sunil Girdhari Lalwani and another

Vs.

State of Maharashtra through P.S.O. Sewagram P.S. Tah. & Dist. Wardha and others

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

Court's or Judge's orders

Shri A.M. Matelwar, Advocate h/f Shri M.B. Naidu, Advocate for applicant
Shri I.J. Damle, APP for non-applicant no.1
Shri Rajesh Bachwani, Advocate for non applicant nos. 2 & 3

CORAM : SMT. M.S. JAWALKAR, J.

DATED : 15/09/2022

The joint application is filed by applicants and respondent Nos. 2 and 3 for grant of permission to compound offence under Section 324 of the Indian Penal Code. It is contended that on 06/01/2014, the non-applicant Nos. 2 and 3 had lodged complaint in Police Station Sewagram, Wardha against the applicants and on the same complaint, an offence punishable under Section 326 read with Section 34 of the Indian Penal Code vide Crime No.11/2014 came to be registered against the applicants in Police Station Sewagram, Wardha.

2. The charge-sheet came to be filed before the learned Judicial Magistrate First Class, Court No.7, Wardha bearing Regular Criminal Case No.112/2014. The learned Judicial Magistrate First Class, Court No.7, Wardha passed judgment on 22/06/2018 and held the applicants guilty for committing an offence punishable under Section 324 of the Indian Penal

Code and convicted him to suffer imprisonment of one year and with fine of Rs.1000/-in default rigorous imprisonment for three months. The applicants preferred an appeal vide Appeal No.44/2018. The said appeal also came to be dismissed.

3. The present Revision Application is filed challenging the judgment of learned Judicial Magistrate First Class, Wardha as well as learned Appellate Court. It is submitted that both the parties belonging to the same community and now relations between the applicants and non-applicant Nos. 2 and 3 are cordial and with passage of time and intervention of common friends, relatives and well wishers, the parties to dispute have solved their dispute between them. Therefore, non-applicant Nos. 2 and 3 do not want to proceed with the application. Accordingly, they entered into an agreement dated 02/09/2022. Copy of which is filed along with the application.

4. The learned counsel for the applicants relied on the case of *Ramgopal and another V/s. State of Madhya Pradesh* reported in *2021 SCC Online 834*, wherein the Hon'ble Apex Court held that having regard to the consideration laid down by the Hon'ble Apex Court and to the nature of the offence on the facts that the parties amicably settled their dispute and the victim has willingly filed affidavit for disposing of the matter by compounding. There is no propriety in the matter became pending. As held in

Ramgopal (*supra*), the High Court can exercise its inherent power under Section 482 of Cr.P.C. that the offences are non-compoundable. The High Court can indubitably evaluate the consequential effects of even if offence beyond body of an individual and thereafter adopt a pragmatic approach, to ensure that felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.

5. In view of the compromise agreement, the applicants are seeking permission to compound the offence. Considering the facts and circumstances, it would be futile to proceed with the matter. Therefore, permission is granted to compound the offence under Section 324 read with Section 34 of the Indian Penal Code.

6. The order passed by the learned Additional Sessions Judge, Wardha in Criminal Appeal No.44/2018 confirming the judgment and order dated 22/06/2018 passed by the learned Judicial Magistrate First Class, Court No.7, Wardha in RCC No.112/2014 is set aside. The applicants stand acquitted for having committed the offence under Section 324 read with Section 34 of the Indian Penal Code. Applicants to be released immediately.