

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

CRIMINAL APPLICATION (APPA) NO. 702 OF 2022
IN
CRIMINAL APPEAL NO. 427 OF 2019

Dnyanoba S/o. Ganpati Tambulge

...VERSUS...

The State of Maharashtra thr. P.S.O., P.S. Mandava, Tq. Jioti, Distt. Chandrapur

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

Court's or Judge's order

Shri Amit Band, Advocate for appellant.
Shri A.M.Kadukar, APP for respondent/State.
Shri Tejas Deshpande, Advocate (Assist to prosecution).

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

DATE : 15th September, 2022.

The present application is filed for quashing and setting aside the judgment dated 22/05/2019 passed by the learned Court below, on account of amicable settlement.

2. The applicant has preferred an appeal being aggrieved by the impugned judgment dated 22/05/2019 passed by the learned Additional Sessions Judge, Chandrapur in Sessions Case No. 114 of 2015.

3. It is submitted that there was quarrel between the applicant and respondent no. 2/original complainant on the petty issue of throwing garbage over the open space near to the house of the applicant. It is submitted that there is no criminal antecedents against the applicant except present one. The applicant is old age person and he is behind the bar from the date of conviction i.e. for a period of more than four years. He was awarded 10 years rigorous

imprisonment with fine of Rs. 5,000/- for committed offence punishable under Section 307 of Indian Penal Code and 3 years rigorous imprisonment with fine of Rs. 1,000/- for the committed offence under Section 450 of Indian Penal Code.

4. The respondent no. 2/original complainant in person are present in the Court. The application is supported by the affidavit of son of applicant as the applicant is behind the bar as well as the affidavit of respondent no. 2/original complainant. The respondent no. 2/victim/complainant stated on oath that the matter is amicably settled between the parties and she is also old age lady.

5. The learned Asst. Government Pleader raised his objection that the prosecution established the offence committed under Section 307 of Indian Penal Code. In view thereof, it cannot be compounded.

6. The learned counsel for the applicant 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 powers under Section 482 of Cr.P.C., even if the offences are non-compoundable. The High Court can indubitably evaluate the consequential effects of the 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.

7. In my considered opinion, one on compounding of the offence, it will not affect to any third person and the relation between the parties may be maintained. As such, I am satisfied that the applicant is entitled for relief as claimed. In view of the amicable settlement between the parties, the judgment passed by learned Additional Sessions Judge, Chandrapur in Session Case No. 114 of 2015 dated 22/05/2019 is hereby quashed and set aside. The applicant is acquitted for the offences of which he was charged. He be released forthwith. The learned Sessions Court to execute the order.

8. All the pending application(s) stand(s) disposed of.

(Smt. M.S. Jawalkar, J.)

B.T.Khapekar