



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 4506 OF 2023

1. Sambhaji S/o. Baburao Pawar,
Age : 58 years, Occu. Agri.,
R/o. Amdura Tq. Mudkhed, Dist.: Nanded.
2. Gandhiji S/o. Baburao Pawar,
Age : 44 years, Occu. Agri.,
R/o. Amdura Tq. Mudkhed, Dist.: Nanded. .. Applicants

Versus

1. The State Of Maharashtra
2. Raju @ Rajaram S/o. Vishwambar Naikwade,
Age : 36 years, Occu.: Business,
R/o. Amdura Tq. Mudkhed, Dist.: Nanded. .. Respondents

Mr. Bharat N. Gadegaonkar, Advocate for the Applicants.
Ms. R. R. Tandale, APP for Respondent/State.

**CORAM : R. G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.**

DATE : 18th DECEMBER, 2023.

PER COURT :-

. Heard.

2. This application has been filed for quashment of the conviction recorded for the offence punishable under Sections 324, 323 r/w Section 34 of the Indian Penal Code (for short "I.P.C.").

3. The applicants were prosecuted for the offence punishable under

Section 307 r/w allied offences. On trial made by the Sessions Court they have been convicted for the offence. The applicant No. 1 has been convicted for the offence punishable under Section 324 of the I.P.C. and applicant No. 2 suffers conviction for the offence punishable under Section 323 of the I.P.C. Their appeal against conviction is pending in this Court. The order of conviction is of 28.04.2008.

4. The learned advocate on instructions informs that, the State has not preferred any appeal against acquittal of the applicants of the offence punishable under Section 307 of the I.P.C. and other offences which they were charged.

5. The informant was the only victim. The applicant No. 1 is sentenced to suffer rigorous imprisonment for three (03) years and applicant No. 2 is sentenced to suffer rigorous imprisonment for one (01) year with fine. Now the parties have settled the matter.

6. The informant victim is present before the Court. He is also represented by learned advocate. He gives express consent to allow this application.

7. The learned A.P.P. has strong objection to allow the application. The learned A.P.P. submits that the sword was used in commission of offence. It was offence against the society. The victim has no locus

now to settle the matter.

8. We have considered the submissions advanced by the learned A.P.P. Since the conviction is for the offences punishable under Sections 324, 323 of the I.P.C., we need not refer to the Apex Court judgments endorsing compromise between victim and the convicts and setting aside the order of conviction.

9. Since it is conviction under Sections 324, 323 of the I.P.C. and while, initially Section 307 of the I.P.C. was not invoked, the present applicants were behind the bar for some days and now in view of the express consent given by the victim himself we allow this application in terms of prayer clauses (B) and (C).

10. The applicants thus stand acquitted of the offences punishable under Sections 324, 323 of the I.P.C. respectively. The order of conviction stands set aside subject to cost of Rs. 10,000/- (Rs. Ten Thousand only) each to be paid to the Advocate Bar Library.

11. The criminal application is disposed of.

(SANJAY A. DESHMUKH)
JUDGE

(R. G. AVACHAT)
JUDGE

PS.B.