

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3075 OF 2023

Sandip Balchandra Chirayu ... Petitioner

Versus

1. The State of Maharashtra

2. Sanjana Patil ... Respondents

Mr. Sachin Pawar for the Petitioner.

Mrs. M. H. Mhatre, APP for the State.

Mr. Rohan Kaiche for Respondent No. 2/Complainant.

**CORAM : PRAKASH D. NAIK &
N.R. BORKAR, JJ.**

DATED : 1 DECEMBER 2023

P.C. :-

The petitioner is convicted for an offence under Section 324 of the Indian Penal Code vide judgment and order dated 18 January 2016 passed by learned JMFC, Murud in RCC No. 10 of 2015.

2. The petitioner and the respondent No. 2 by invoking Article 226 of the Constitution of India and Section 482 of Code of Criminal Procedure have challenged the judgment and order dated 18 January 2016 passed by learned JMFC, Murud in RCC No. 10 of 2015 on the ground that the parties have amicably

settled their dispute, hence the conviction be set aside.

3. Apart from the petitioner, the accused Balchandra Parshuram Chirayu and Dinesh Balchandra Chirayu were also convicted for an offence under Section 324 of the Indian Penal Code. Both of them have expired.

4. The petitioner preferred an appeal challenging the judgment of conviction viz. Criminal Appeal No. 15 of 2016 before the Court of Sessions at Alibag. The said appeal is pending.

5. The petitioner, complainant and her husband are present in the Court.

6. The affidavit sworn by the complainant- Sanjana Sanjay Patil is tendered. The same is taken on record. It is stated that the petitioner is her neighbour and the dispute between them has been resolved amicably. The conviction may be set aside. The injured witness- Sanjay Jagannath Patil is also present in the Court. It is submitted that the dispute between the parties is resolved and he has no objection for setting aside the conviction.

7. Learned Advocate for the petitioner submitted that although the appeal preferred by the petitioner is pending

before the Court of Sessions, the offence under Section 324 of IPC is non compoundable and the appellate Court is not empowered to set aside the conviction on the ground of settlement between the parties. It is submitted that even in the case of conviction, this Court is empowered to set aside the conviction on the ground of settlement between the parties by exercising the inherent powers under Section 482 of the Code of Criminal Procedure.

8. Reliance is placed on the decision of the Apex Court in the case of ***Ramgopal and anr. Vs. State of Madhya Pradesh*** reported in 2022 CRI. L. J. 2801.

9. Learned Advocate for the respondent supported the prayer for quashing and setting aside the conviction in view of the fact that the parties have resolved their dispute.

10. Undisputably, the offence under Section 324 of the Indian Penal Code is non compoundable and the appellate Court, where the appeal is pending, is not empowered to compound the offence or set aside the conviction on the ground of settlement between the parties.

11. In the case of ***Ramgopal and anr. Vs. State of Madhya Pradesh*** (supra), the appellant was convicted for an offence

under Section 326 of the IPC and awarded sentence of three years of imprisonment. The Apex Court has observed that the criminal proceedings involving non-heinous offences or where the offences are predominantly of private nature, can be annulled irrespective of fact that the trial has already been concluded or appeal stands dismissed against the conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. The touchstone for exercising the extra ordinary power under Section 482 of the Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 of Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended.

12. The factual matrix of the case indicates that the accused and the injured persons are neighbours. The conviction is for an offence under Section 324 of the IPC. The accused was

sentenced for imprisonment of one year. Out of the three accused two of them had expired after the conviction. The parties have resolved their dispute.

13. Considering the facts of the present case and in the light of the observation made by the Apex Court in the aforesaid decision, the conviction can be set aside on the ground that the parties have settled the dispute amicably.

ORDER

- (i) Writ Petition No. 3075 of 2023 is allowed.
- (ii). The impugned judgment and order dated 18 January 2016 passed by learned JMFC, Murud in RCC No. 10 of 2015 convicting the petitioner for an offence under Section 324 of the Indian Penal Code and sentencing him to suffer imprisonment of one year is quashed and set aside. Accused stands acquitted.
- (iii) Appeal preferred by petitioner before concerned Court challenging impugned judgment may be disposed of as infructuous.

(N.R. BORKAR, J.)

(PRAKASH D. NAIK, J.)