

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRI. REVISION APPLICATION NO. 514 OF 2024

Nisar Abdul Shaikh

Applicant

.. (Org. Accused No. 1)

Versus

The State of Maharashtra

.. Respondent

.....

- Mr. Mahendra Sandhyanshiv for Applicant
- Ms. Dhanalakshmi S. Krishnaiyer, APP for State
- Mr. Vikas Shivarkar for Org. Complainant

.....

CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 14, 2024

P. C.:

1. Heard learned Advocates for the parties.
2. At the outset, Mr. Sandhyanshiv, learned Advocate for Applicant seeks leave to amend the present Revision Application to add complainant as party respondent. Leave to amend is granted. Amendment is permitted to be carried out forthwith. Re-verification stands dispensed with. Copy of the amended Revision Application / cause title be served on the Respondents.
3. It is seen that complainant and accused in the present case are real brothers. Mr. Sandhyanshiv would inform the Court that parties have reconciled the matter and do not wish to proceed any further. Mr. Shivarkar, learned Advocate appears for complainant. He would submit that this Court be pleased to consider its power under the

provisions of Section 407 read with Section 326 of IPC in the present case where both private parties are involved and when the offence between parties is restricted so as not to affect the public at large or public peace and tranquility at large. He would submit that in order to secure ends of justice and put a quietus to the matter, this Court should consider and allow compounding of the offence under Section 326 in the present case even if it is a non-compoundable offence. In respect of this proposition, both the learned Advocates would refer to and rely upon the decision in the case of **Gian Singh Vs. State of Punjab**¹ which has been followed by the Supreme Court in the case of **Yogendra Yadav & Ors. Vs. State of Jharkhand & Anr**². Both the learned Advocates have invited my attention to paragraph No. 4 of the decision in the case of *Yogendra Yadav (2nd supra)* and would contend that it has been held by the Supreme Court that if the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. However on reading paragraph No. 4 and the decision in the case of *Gian Singh (1st supra)* remedy of the parties before me would lie in an appropriate proceedings filed under Section

1 2012 (10) SCC 303

2 2014 (9) SCC 653

482 of Cr.P.C. and not Section 397 of Cr.P.C. The proceedings before me are under Section 397 of Cr.P.C. To counter this, Mr. Shivarkar would submit that if both the parties are in agreement, this Court should not drive the parties to file a fresh Petition under Section 482 and in order to secure ends of justice, the present proceedings can be considered adequate.

4. After hearing submissions made by both the learned Advocates, I call upon learned APP to consider this order and the decisions which are cited at the bar and accordingly make submissions on the next adjourned date on the issue of law and power of the Court under Section 397 and whether it can be exercised to compound the offence in the present case.

5. Liberty to newly added Respondent represented by Mr. Shivarkar to file affidavit in reply and serve the same in advance on the other side.

6. Stand over to **21st October, 2024.**

[MILIND N. JADHAV, J.]

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