



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

CRIMINAL APPLICATION NO. 667 OF 2024

Vipin Purshottam Madavi,
Age – 36, Occ. : Medical Practitioner
R/o Sant Saikrupa Society, New Look
Convent, Narendra Nagar, Nagpur

...Applicant

// VERSUS //

1. State of Maharashtra, through Police
Station Officer, Police Station
Gadchiroli, District Gadchiroli.
2. Shalini Vipin Madavi,
Age : 33 Years, Occ. Housewife
C/o R/o Santosh Devaji Sidam
Shanti Nagar, Potegaon, Bypass Road,
Gadchiroli

Non-applicants.

Shri Arjun Deshmukh, Advocate for the applicant.
Shri A.R.Chutke, APP for the non-applicant/State.
Shri S.B.Tiwari, Advocate for the non-applicant no.2.

**CORAM : SMT. VIBHA KANKANWADI, AND
MRS. VRUSHALI V. JOSHI, JJ.**

DATED : 15th July, 2024.

JUDGMENT : [PER : SMT. VIBHA KANKANWADI, J.]

Rule. Rule made returnable forthwith. Heard finally by
consent of the parties.

2. The present application has been filed by invoking inherent powers of this Court under Section 482 of the Code of Criminal Procedure for quashing and setting aside the judgment dated 4th June, 2022 passed in Regular Criminal Case No. 84 of 2020 by the learned Chief Judicial Magistrate, Gadchiroli, wherein the applicant has been convicted for the offence punishable under Sections 448, 452 and 323 of the Indian Penal Code.

3. Heard Shri Arjun Deshmukh, learned Advocate for the applicant, Shri A.R.Chutke, learned Additional Public Prosecutor for the non-applicant/State and Shri S.B.Tiwari, learned Advocate for the non-applicant no.2.

4. It has been stated that the applicant has challenged the said conviction before the learned Sessions Judge, Gadchiroli by filing criminal appeal under Section 374(3) of the Code of Criminal Procedure. However, the parties have settled their dispute and now the non-applicant no.2 has no objection for setting aside the conviction.

5. It is to be noted that the learned Chief Judicial Magistrate while deciding Regular Criminal Case No. 84 of 2020, wherein present applicant was the original accused held him guilty of committing offence punishable under Sections 448, 452, 323 of the Indian Penal Code. However, sentencing him at once, benefit under Section 4 of the Probation of Offenders Act on his entering bond in the sum of Rs.15,000/- with one solvent surety in the like amount with direction to

keep peace with a good behaviour for a period of two years was imposed. As aforesaid the said decision is subjudiced in appeal before the learned Sessions Judge, Gadchiroli. From the record that is produced, it appears that the said settlement was arrived at before the learned Chief Judicial Magistrate in domestic violence case on 20th February, 2024 by the time the appeal bearing Criminal Appeal No. 20 of 2022 is pending before the Sessions Judge and even the present application was pending.

6. We would like to rely in the case of Ramgopal Vs. State of M.P., reported in 2022(1) Mh.L.J (Cri.) (S.C.) 291, Ramawatar Vs. State of M.P. reported in (2022) 13 SCC 635 and Maya Vs. State of Maharashtra, reported in 2021(1) Mh.L.J 613.

7. Paragraph 19 of Ramgopal (supra) would be important, which is as under :

“19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences ‘compoundable’ within the statutory framework, the extra-ordinary power enjoined upon a High Court under Section 482 Cr.P.C or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) seriousness of the injury, if any; (iii) voluntary nature of compromise between the accused and the victim; & (iv) conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.”

8. In Ramgopal (supra) as well as Ramawatar (supra), the Hon'ble Supreme Court was of the view that when the dispute is settled, then it should be seen by the Court that the complete justice is done in order to maintain peace and relation between the parties if they arrived at a compromise at the latter point of time, within the parameters laid down, such powers under section 482 can be exercised.

9. Here, it is to be noted that in addition to the above sections, the applicant was also charge-sheeted under Sections 504 and 506 of the Indian Penal Code but he has been acquitted of the said offence by the learned Chief Judicial Magistrate. Further though he has been held guilty of committing three offences under Sections 448, 353 and 323 of the Indian Penal Code, learned Judge has exercised his powers to release the applicant on probation of good conduct. It appears that he has wrongfully used the word 'convicted' which is not to be used when such benefit is proposed to be given under Section 4 of the Probation of Offenders Act. The non-applicant no.2 is the wife of the applicant and from the compromise that has been arrived at and now it appears that they have decided to part with each other and filed petition for divorce. She has accepted the amount for one time settlement and also it was agreed that the jewellery would be returned. She has no objection to set aside the conviction. Another fact to be noted is that bond which would have been executed by the applicant in pursuant to the said order (as it is not brought on record, the said order was stayed by the Appellate Court), even the period of two years for which he was supposed to keep peace and good behaviour has come to an end and therefore, we have no hesitation

in exercising our powers under Section 482 of the Code of Criminal Procedure. However, taking into consideration the fact that the said compromise has taken place at such a belated stage and the machinery has been utilized, we impose costs on the applicant. With these observations, we pass the following order.

- i. Criminal application no. 667 of 2024 is allowed;
- ii. The judgment and order dated 4th June, 2022 in Regular Criminal Case No. 84 of 2020 passed by the learned Chief Judicial Magistrate, Gadchiroli convicting the applicant for the offence punishable under Sections 448, 452, 323 of Indian Penal Code stands quashed and set aside;
- iii. In view of the quashing of the said judgment and order dated 4th June, 2022, Criminal Appeal No. 20 of 2022 pending before the learned Sessions Judge, Gadchiroli stands disposed of;
- iv. The applicant to deposit costs of Rs.20,000/- in the High Court Legal Services Sub-Committee, Nagpur on or before 31st July, 2024.

[MRS. VRUSHALI V. JOSHI, J.] [SMT. VIBHA KANKANWADI, J.]