



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

CRIMINAL APPLICATION (APL) NO.1447 OF 2024

Sopan s/o Tejrao Kasar,
Age 28 years, Occupation – Labour,
R/o Jumda, Tq. Deulgaon Raja,
District Buldana.

.... APPLICANT

VERSUS

1) The State of Maharashtra,
through Police Station Officer,
Police Station Deulgaon Raja,
District Buldana.

2) Santoshi Subhash Kasar, - (Original Complainant)
in Crime No.27/2019 registered
with Police Station Deulgaon Raja,
District Buldana,
R/o MO. Jumda, PO Sawkhed Bhoi,
Tq Deulgaon Raja, Buldana,
Maharashtra - 443204.

.... NON-APPLICANTS

Mr. A.A. Gupta, Counsel for the applicant,
Mr. A.M. Ghogare, Addl.PP for non-applicant No.1,
Mr. F.F. Sheikh, Counsel for non-applicant No.2.

CORAM : VINAY JOSHI & ABHAY J. MANTRI, JJ.
DATE : 16th OCTOBER, 2024

ORAL JUDGMENT : (Per : VINAY JOSHI, J.)

Heard. **RULE.** Rule made returnable forthwith. Heard finally with
consent of the learned Counsel for the parties.

2. This is an application seeking to quash the order of conviction dated
19-5-2022 passed in Regular Criminal Case No.34/2019 for the offence

punishable under Section 354 of the Indian Penal Code. The trial Court has imposed sentence to undergo rigorous imprisonment for two years and to pay fine of Rs.5,000/- with default clause. The quashing of judgment of conviction which has suffered a seal of appellate Court, has been sought to quash on account of mutual settlement in between the parties.

3. The facts in brief are that the informant lady is cousin aunt of the applicant. On the date of occurrence, while the informant was proceedings towards her field, the applicant came from behind, caught hold and touched her inappropriately for which the crime was registered. The applicant was put on trial and after full-fledged trial, he has been convicted for the offence punishable under Section 354 of the Indian Penal Code and aforesaid sentence was imposed. Being aggrieved, the applicant has preferred Criminal Appeal No.38/2022 which was dismissed on merit vide judgment and order dated 26-3-2024. The said decision was questioned by the applicant in Criminal Revision Application No.76/2024, which is pending before the learned Single Judge.

4. It is informed that initially after arrest, the applicant was in Jail for twenty-seven days and after dismissal of the appeal, he was in Jail for one month, meaning thereby for near about two months he was in Jail. The matter has been amicably settled as the parties are closely related to each others as well as residing in the proximity. The informant lady has

appeared and filed reply stating that the matter has been amicably settled and, therefore, the conviction may be quashed. The informant is present before us who is identified by her learned counsel. Informant stated that the non-applicant No.2 is her cousin nephew, considering the close relations, she has forgiven him and urged for quashing. The informant also stated that in order to maintain cordial relationship in the family, the entire family members have taken conscious decision which has resulted into settlement and, therefore, she gave no objection for quashing.

5. The applicant's learned Counsel would submit that though the applicant is convicted and the appeal was dismissed, however, there is no legal embargo in quashing the conviction by exercising inherent powers of this Court in terms of Section 482 of the Code of Criminal Procedure. To substantiate said contention, reliance is placed on the decision of the Supreme Court in the case of *Ramgopal and another V State of Madhya Pradesh, (2022) 14 SCC 531*. Particularly our attention has been invited to the observations made in paragraphs 12 and 13 of the decision wherein it is expressed that considering the nature of offence, this Court under inherent powers can annul the prosecution despite the trial has ended in conviction and appeal has been dismissed. The Legislature has invested inherent powers to the High Courts with a sole object to secure the ends of justice or to prevent abuse of the process of the court. The powers are unlimited which obviously are to be exercised in peculiar facts and

circumstances of the case. In the case at hand, both the parties are closely related to each other. They are residing in the proximity. The informant lady is cousin aunt of the applicant who has forgiven the applicant for the incident. Moreover, the entire family took a decision to settle the dispute to maintain the family cord intact. The offence cannot be stated to be heinous or antisocial. Rather, the offence was within the family. Already the applicant has undergone actual imprisonment of two months. Considering peculiar circumstances, we are inclined to exercise our inherent powers. The applicant's learned Counsel would submit that the fine amount which has already been deposited can be forfeited towards the costs.

6. In view of above, the application is allowed. We hereby quash and set aside the conviction rendered by the trial Court in Regular Criminal Case No.34/2019 vide judgment dated 19-5-2022 which was confirmed in Criminal Appeal No.38/2022. The fine amount, which has already been deposited in the trial Court, stands forfeited to the State.

Bail bonds stand cancelled.

(ABHAY J. MANTRI, J.)

(VINAY JOSHI, J.)

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