



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

913 CRIMINAL REVISION APPLICATION NO. 70 OF 2019

AHMED YAKUB SHAIKH
VERSUS
RAJIYA HAMID SHAIKH AND ANR

.....
Advocate for Applicant : Mr. Kotkar Sanjay D.
APP for Respondents/State : Mr. S.R. Wakale
Advocate for Respondents : Mr. Jagtap Adinath B.
.....

CORAM : Y.G. KHOBRAGADE, J.
DATE : 12.12.2025

PC.:-

1. Heard the learned counsel appearing for the applicant and the learned counsel appearing for the non-applicant/victim as well as the learned APP for the Respondent/State.
2. By the present revision under Section 397 of the Cr.PC., the applicant/accused takes exception to the judgment and order dated 06.02.2019 passed by the Additional Sessions Judge, Ahmednagar, in Criminal Appeal No.23/2012, whereby affirmed the judgment and order dated 21.01.2012 passed by the learned J.M.F.C. Pathardi in STC No.78/2010, thereby sentencing the applicant/accused for the offence punishable under

Section 354 of the I.P.C. and directed to suffer simple imprisonment for three months with fine of Rs.2,000/-.

3. On face of record it appears that, on 12.03.2015, the applicant/accused and the non-applicant/victim filed affidavit Exh.11 and 12 respectively before the District and Sessions Court, Ahmednagar stating that they have amicably settled the dispute out of Court.

4. Needless to say that, on 15.11.2022, the non-applicant victim filed affidavit before this Court stating that, the applicant/accused is her close relative and during pendency of present revision both of them amicably settled the dispute out of the Court. However, the learned District and Sessions Court, Ahmednagar declined to compound the offence punishable under Section 354 of the I.P.C., because said offence is non compoundable.

5. The Division Bench of this Court passed the Judgment in Criminal Application No.2546/2023 on 22.08.2024 and held as under:

6. At the outset, we would like to consider the legal point first on this aspect, as to whether after the conviction a compromise can be allowed to be recorded and there upon the conviction can be set aside. In the case of Ramgopal and another vs. the State of Madhya Pradesh, (2022) 1 Mh. L. (CI) 291, it has been observed that having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, the High Court can quash such proceedings in exercise of its inherent powers under Section 482 of the Code of Criminal Procedure, even if the offences are non-compoundable. The High Court can indubitably evaluate

the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system. We are also taking note of the decision in Ramawatar vs. State of Madhya Pradesh, (2022) 13 SCC 635 wherein Ramgopal and another vs. the State of Madhya Pradesh (supra) was considered and it was observed that "We, however, put the further caveat that the powers under Article 142 or under Section 482 of the Cr.P.C. are exercisable in post-conviction matters only when an appeal is pending before one or the other Judicial forum. This is on the premise that an order of conviction does not attain finality till the accused has exhausted his/her legal remedies and the finality is subjudice before an appellate Court." Thus, the pendency of criminal proceedings, be that may before the final Court, is sine qua non to involve the superior Court's plenary powers to do complete justice.

7. We are also taking note of the Full Bench decision of this Court in the case of *Maya Sanjay Khandare vs. State of Maharashtra, 2021(1) Mh.L.J. 613*, wherein it is observed that:-

"Hence, we hold that ordinarily the contention that the convict and the informant/complainant have entered into a compromise after the judgment of conviction can be raised only before the appellate/revisional Court in proceedings challenging such conviction. It would be a sound exercise of discretion under Section 482 of the Code and in accordance with the law of the land to refuse to quash criminal proceedings post-conviction for a non-compoundable offence only on the ground that the parties have entered into a compromise. Instead the Court can permit the convicted party to bring to the notice of the appellate/revisional Court the aspect of compromise. Having said so, it is only in rarest of rare cases that the Court may quash the criminal proceedings post-conviction for a non-compoundable offence on settlement between the convict and the informant/complainant...."

6. In the case in hand, admittedly the present applicant/accused was held guilty for the offence punishable under Section 354 of the I.P.C. and he

was sentenced to suffer simple imprisonment for three months with fine of Rs.2,000/-. Further, on 06.02.2019, the learned Appellate Court passed the impugned order and affirmed the order of conviction of the present applicant under Section 354 of the I.P.C.

7. No doubt, as per Section 320 of the Cr.P.C. the offence punishable under Section 354 is not compoundable. However, considering the law laid down in the cases of ***Ramgopal and Ramawatar*** cited (supra), the powers under Section 482 of the Cr.P.C. are exercisable in post-conviction matters only when an appeal is pending before one or the other judicial forum and even the offences are not compoundable, a pragmatic approach is required to be taken. Since the applicant/accused and non-applicant victim are relatives and both of them have amicably settled the dispute with a view to keep harmony in the society, therefore, it will be just and proper to permit to compound the offence punishable under Section 354 of the I.P.C. Needless to say that, the applicant/accused and victim compounded said offence at the revisional level after passing of the order by the learned Appellate Court. Therefore, it would be just and proper to compensate the victim for the said offence by awarding compensation of Rs.20,000/-.

8. The applicant/accused agreed to pay compensation of Rs.20,000/- to the non-applicant victim and she has agreed to accept the same. Therefore, it will be just and proper to permit the applicant-accused and victim to compound the offence punishable u/s 354 of IPC as per decision in the cases of ***Ramgopal*** and ***Ramawatar*** cited (supra).

9. In view of above, the impugned judgment and order dated 06.02.2019 passed by the Additional Sessions Judge, Ahmednagar, in Criminal Appeal No.23/2012 as well as judgment and order dated 21.01.2012 passed by the learned J.M.F.C. Pathardi in STC No.78/2010 are hereby quashed and set aside. The applicant-accused shall deposit compensation of Rs. 20,000/- before this Court within a period of three weeks from today. After deposit of compensation, issue notice to the victim for withdrawal of compensation.

10. In view of above, the revision is disposed off. It is made clear that if the applicant/accused fails to deposit the said amount this order would be recalled.

[Y.G. KHOBRAGADE, J.]