



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.3557 OF 2025
IN
CRIMINAL APPEAL NO. 255 OF 2003**

1. Sahebrao Walhu Chavan,
Age : Major, Occ. Agriculture,
2. Bhaginath Sahebrao Chavan,
Age : 50 Years, Occ. Agriculture,
3. Shivaji sahebrao Chavan,
Age : Major, Occ. Agriculture,

All resident of R/o. Walan, Tal. Vaijapur,
District. Chhatrapati Sambhajinagar

Applicants
(Accused No.1 to 3)

VERSUS

1. The state of Maharashtra
2. Balasaheb Kachru Suryawanshi,
Age : Major, Occ. Agriculture,
R/o. Walan, Tal. Vaijapur,
District Chhatrapati Sambhajinagar

Respondents

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Advocate for the applicants : Mr. Sartaj Pathan
A.P.P. for Respondent/State : Mr. N. B. Patil
Advocate for Respondent No.2 : Mr. Tabrej Quadri h/f Mr. Gulam
Mustafa

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**CORAM : SANDIPKUMAR C. MORE AND
Y. G. KHOBRAGADE, JJ.**

DATED : 20/11/2025.

ORDER :

1. Heard rival submissions. By way of this application, the applicants, who are the original accused, are seeking quashing of Judgment and order dated 27.03.2003, passed by learned Trial Judge, i.e. 4th Ad-hoc Additional Sessions Judge, Aurangabad, in Sessions Case No. 215 of 2002, on settlement and consequently their acquittal.

2. Admittedly, the applicant No.2 is convicted in the aforesaid Sessions Case for the offence punishable under Section 307 of the Indian Penal Code (hereinafter referred to as "I.P.C.") and applicant Nos. 1 and 3 are convicted for the offence punishable under Section 326 of the I.P.C. in the same case. Applicant No.2 is sentenced to suffer rigorous imprisonment for two months and to pay fine of Rs. 7,000/- with default clause, whereas, applicant Nos. 1 and 3 are sentenced to suffer rigorous imprisonment. for two months and to pay fine of Rs. 4,000/- each with default clause.

3. However, during the pendency of the present appeal of the applicants, compromise took place between applicants and respondent No.2, which resulted into filing of compromise terms between them. The said compromise is taken on record and

marked 'X' for identification. It was sent to the learned Registrar (Judicial) of this Court for verifying its contents. The learned Registrar (Judicial) vide report dated 04.11.2025, intimated this Court that the parties to the compromise admitted the contents and submitted that they have voluntarily entered into the compromise. According to them, due to intervention of elderly persons and for future harmonious relations, they have buried their dispute and now they have decided to enjoy their friendship by forgetting all the earlier bitter experiences of the incident as well as criminal prosecution. The injured persons have also settled their dispute with the applicants. Thus, they are now seeking quashing of impugned judgment at post-conviction stage. However, it is also significant to note that in the instant case, there were other injured persons also, namely Indubai Bhausahab Magar, Pandharinath Savlaram Magar, Kesharbai Pandarinath Magar, Pandrinath Kachru Suryawanashi and Kakasaheb Kachru Suryawanshi. However, out of these injured persons, Pandrinath Savalram Magar and Kesharbai Pandharinath Magar, are no more and they died on 12.06.2006 and 21.12.2013 respectively. Their death certificates are also filed on record. The remaining injured persons have filed their respective affidavits mentioning that they also have settled

their dispute with the applicants and thereby supported the prayer claimed by the applicants in this application.

4. The learned A.P.P. strongly opposed the application on the ground that the offences are non-compoundable and the parties unnecessarily used police as well as Court machinery, since 2003.

5. However, in the case of **Ramgopal and another Vs. The State of Madhya Pradesh, [(2022) 1 Mh.L.J. (Cri) 291]**, it is observed that having regard to the nature of the offence and parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, the High Court can exercise its inherent powers under Section 482 of the Code of Criminal Procedure even if the offences are not compoundable. In case of **Ramawatar vs. State of Madhya Pradesh, (2022) 13 SCC 635** the same view has been reiterated by referring the earlier aforesaid judgment. It has been specifically observed as follows:

“We, however, put the further caveat that powers under Article 142 or under Section 482 of 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. As such now the pendency of criminal proceedings before the final court is sine qua non to involve the superior Court's plenary powers to do complete justice."

6. In view of the aforesaid observation, it has been made clear that parties can be allowed to compromise the matter in non-compoundable matters and even at post-conviction stage, by exercising powers under Section 482 of the Code of Criminal Procedure.

7. In the instant matter, it appears that, the applicants and respondent No.2 are residents of same village and they have already decided to bury their differences for leading harmonious life in future. Therefore, by considering the ratio laid down by the Hon'ble Apex Court in the aforesaid judgment and also considering the contents of compromise terms filed by the rival parties, we are of the opinion that, this is a fit case for exercising powers under Section 482 of the Code of Criminal Procedure by granting them permission to compound the matter. However, we are also of the opinion that, since such compounding would result in the acquittal of applicants, they are not permitted to claim any refund of the fine

amount deposited by them in the Court of learned Trial Judge, as they have utilized the Court machinery since long and then sought compounding of matter at post-conviction stage. In the result we pass following order :-

ORDER.

- (I) The application stands allowed.
- (ii) The judgment and order dated 27.03.2003 passed by the 4th Ad-hoc Additional Sessions Judge, Aurangabad in Sessions Case No. 215 of 2002 stands quashed and set aside along with the conviction recorded by the learned Trial Judge therein. Consequently the applicants are hereby acquitted, however, the fine amounts deposited by them shall stand forfeited to the Government.
- (iii) The Criminal Appeal No. 255 of 2003 now being infructuous, stands disposed of.

(Y. G. KHOBRADE, J.) (SANDIPKUMAR C. MORE, J.)