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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.568 OF 2011

Vijay Karbhari Golhar and Others

APPELLANTS

VERSUS

The State of Maharashtra

RESPONDENT

.....

Mr. Rajendra Deshmukh, Senior Advocate a/w Mr. Vishal Chavan
and Mr. Ubaid Hashmi i/b Mr. Devang Deshmukh, Advocate for
the Appellant

Mr. A. S. Shinde, APP for Respondent - State

.....

AND

CRIMINAL APPEAL NO.101 OF 2019

Bhausahab Nanasaheb Latpate

APPELLANT

VERSUS

Vijay Karbhari Golhar and Others

RESPONDENTS

.....

Mr. Satej Jadhav, Advocate for the Appellant
Mr. A. S. Shinde, APP for Respondent - State
Mr. Rajendra Deshmukh, Senior Advocate a/w Mr. Vishal Chavan
and Mr. Ubaid Hashmi i/b Mr. Devang Deshmukh, Advocate for
the Respondents No. 1 to 8

.....

AND

CRIMINAL APPEAL NO.579 OF 2011

Bhausahab Nanasaheb Latpate and Others

APPELLANTS

VERSUS

The State of Maharashtra

RESPONDENT

.....

Mr. Satej Jadhav, Advocate for the Appellant
Mr. A. S. Shinde, APP for Respondent - State

.....

AND

CRIMINAL APPLICATION NO. 2524 OF 2025

IN

CRIMINAL APPEAL NO.579 OF 2011
WITH
CRIMINAL APPEAL NO. 568 OF 2011

Bhausahab Nanasaheb Latpate & Others	APPLICANTS
AND	
Vijay Karbhari Golhar and Others	APPLICANTS

VERSUS

The State of Maharashtra	RESPONDENT
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.....
Mr. Satej Jadhav, Advocate for the Appellant
Mr. A. S. Shinde, APP for Respondent - State
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**[CORAM : NITIN B. SURYAWANSHI, &
SANDIPKUMAR C. MORE, J. J.]**

DATE : 12th AUGUST, 2025

ORDER :

1. Political rivalry between two groups in the village has resulted into filing cross complaints against each other. Appellants in Criminal Appeal No. 568 of 2011 were prosecuted in Sessions Case No. 29 of 2009 and are convicted for offence punishable under section 148, 324, 326, 323 read with 149 of the Indian Penal Code and sentenced to suffer Rigorous Imprisonment for 3 years along with fine.

2. Appellants in Criminal Appeal No. 579 of 2011 were prosecuted in Sessions Case No. 41 of 2009 and are convicted for offence punishable under section 147, 148, 324, read with 149 of the Indian Penal Code and sentenced to suffer Rigorous

Imprisonment for 2 years with fine.

3. Criminal Appeal No. 101 of 2019 is filed by Appellants in Criminal Appeal No. 579 of 2011 seeking enhancement of sentence of 3 years RI imposed on Appellants in Criminal Appeal No. 568 of 2011.

4. At the time of final hearing of these appeals, Appellants in both these appeals have jointly filed Criminal Application No. 2524 of 2025 in the form of joint compromise *purshis* stating that, they have amicably settled their dispute with the intervention of respected persons in the society and village. They have realized the drawbacks of fighting over trivial issues for such a long period and better sense has prevailed on them and they have decided to live in peace and harmony, as they used to live before occurrence of the incident in question. They undertake to live like brothers and maintain cordial relations among them. They have, therefore, prayed that Criminal Appeals No. 568 of 2011 and 579 of 2011 be allowed, in view of the joint *purshis* and the judgments and orders of conviction passed against them, be quashed and set aside.

5. Appellants in both these Appeals were present in the Court. They are identified by their respective Advocates. They reiterated the submissions made in the joint compromise *purshis*,

which is verified before the learned Registrar (Judicial). They confirmed that the cross complaints were filed by them against each other due to the political rivalry and dispute which arose due to the Sarpanch election. Prior to the incident in question, they were residing happily in the village and had good relations with each other. They further submitted that the incident in question has happened because of misunderstanding. Now, they have settled their dispute and they undertake to live together happily without indulging into any criminal activity.

6. Learned Senior Advocate Mr. Rajendra Deshmukh and learned Advocate Mr. Satej Jadhav, appearing for Appellants in these Appeals, submit that though after full fledged trial before learned Additional Sessions Judge, the Appellants are convicted, yet, now during the pendency of the Appeals, due to intervention of the elderly persons and relatives, compromise has taken place. The joint *purshis* has been filed by the parties stating that they want to keep good relations with each other in future. By relying on **“Ramawatar V/s State of Madhya Pradesh” AIR 2021 SC 5228**, they submit that, in view of the amicable settlement of the dispute between the parties and considering the fact that the incident has occurred due to political rivalry, this Court may allow the Appeals.

7. Learned APP, by relying on the Full Bench decision of this Court in ***“Maya Sanjay Khandare and Another V/s State of Maharashtra” 2021 (1) Mh.L.J. 613***, to which one of us (N. B. Suryawanshi, J.) is a party, strenuously opposed the Application submitting that, Full Bench has held that, once conviction is recorded by the Trial Court, it cannot be set aside on the basis of compromise, at the Appellate stage. He, therefore, prayed that the Application may be dismissed and the Appeals may be decided on merit.

8. Heard learned Advocates for the respective parties and the learned APP at length, perused the record and citations relied upon by the respective parties.

9. Before coming to the facts of the present matter, we would deal with the legal position on the point whether on the basis of compromise post conviction, the conviction can be set aside.

10. Full Bench of this Court in ***“Maya Sanjay Khandare”*** (*supra*), decided on 5th January, 2021, held that, post conviction compromise is not sufficient to set aside conviction in non compoundable offence. There is no power conferred by the Code either on appellate Court / revisional Court to acquit an accused convicted for commission of a non compoundable offence, only on the ground that compromise has been entered into between

the convict and the informant / accused. It is further held that, *“It is only in rarest of rare cases that Court may quash criminal proceedings post conviction for a non compoundable offence on settlement between convict and informant / complainant”*.

11. Subsequent to the Full Bench decision in **“Maya Sanjay Khandare”** (*supra*), the Apex Court, on 29th September, 2021, rendered decision in **“Ramgopal and Another V/s State fo Madhya Pradesh” (2022) 14 SCC 531**, wherein it is held that;

13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are predominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extraordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where

heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in Narinder Singh & Ors. vs. State of Punjab & Ors.³ and Laxmi Narayan (Supra).

14. In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed betwixt two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a ‘settlement’ through duress, threats, social boycotts, bribes or other dubious means. It is well said that “let no guilty man escape, if it can be avoided.”

18. It is now a well crystalized axiom that the plenary jurisdiction of this Court to impart complete justice under Article 142 cannot ipso facto be limited or restricted by ordinary statutory provisions. It is also noteworthy that even in the absence of an express provision akin to Section 482 Cr.P.C. conferring powers on the Supreme Court to abrogate and set aside criminal proceedings, the jurisdiction exercisable under Article 142 of the Constitution embraces this Court with scopious powers to quash criminal proceedings also, so as to secure complete justice. In doing so, due regard must be given to the overarching objective of sentencing in the criminal justice system, which is grounded on the sublime philosophy of maintenance of peace of the collective and that the rationale of placing an individual behind bars is aimed at his reformation.

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 extraordinary 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.”

12. The decision in **“Ramgopal”** (*supra*) was affirmed by three judges bench of the Apex Court in **“Ramawatar”** (*supra*), observing that;

9. Having heard learned Counsel for the parties at some length, we are of the opinion that two questions fall for our consideration in the present appeal. First, whether the jurisdiction of this Court under Article 142 of the Constitution can be invoked for quashing of criminal proceedings arising out of a ‘non compoundable offence? If yes, then whether the power to quash proceedings can be extended to offences arising out of special statutes such as the SC/ST Act?

10. So far as the first question is concerned, it would be ad rem to outrightly refer to the recent decision of this Court in the case of RamGopal and Anr V. The State of Madhya Pradesh, wherein, a two Judge Bench of this Court consisting of two of us (N.V. Ramana, CJI & Surya Kant, J) was confronted with an identical question. Answering in the affirmative, it has been clarified that the jurisdiction of a Court under Section 320 Cr.P.C cannot be construed as a

proscription against the invocation of inherent powers vested in this Court under Article 142 of the Constitution nor on the powers of the High Courts under Section 482Cr.P.C. It was further held that the touchstone for exercising the extraordinary powers under Article 142 or Section 482 Cr.P.C., would be to do complete justice. Therefore, this Court or the High Court, as the case may be, after having given due regard to the nature of the offence and the fact that the victim / complainant has willingly entered into a settlement / compromise, can quash proceedings in exercise of their respective constitutional / inherent powers.

11. The Court in Ramgopal (Supra) further postulated that criminal proceedings involving non heinous offences or offences which are predominantly of a private nature, could be set aside at any stage of the proceedings, including at the appellate level. The Court, however, being conscious of the fact that unscrupulous offenders may attempt to escape their criminal liabilities by securing a compromise through brute force, threats, bribes, or other such unethical and illegal means, cautioned that in cases where a settlement is struck post conviction, the Courts should, interalia, carefully examine the fashion in which the compromise has been arrived at, as well as, the conduct of the accused before and after the incident in question. While concluding, the Court also formulated certain guidelines and held:

“19... 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.”

12. In view of the settled proposition of law, we affirm the decision of

this Court in Ramgopal (Supra) and reiterate that the powers of this Court under Article 142 can be invoked to quash a criminal proceeding on the basis of a voluntary compromise between the complainant/victim and the accused.

13. We, however, put a further caveat that the powers under Article 142 or under Section 482 Cr.P.C., are exercisable in post conviction matters only where 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. The pendency of legal proceedings, be that may before the final Court, is sinequanon to involve the superior court's plenary powers to do complete justice. Conversely, where a settlement has ensued post the attainment of all legal remedies, the annulment of proceedings on the basis of a compromise would be impermissible. Such an embargo is necessitated to prevent the accused from gaining an indefinite leverage, for such a settlement/compromise will always be loaded with lurking suspicion about its bona fide. We have already clarified that the purpose of these extraordinary powers is not to incentivise any hollow hearted agreements between the accused and the victim but to do complete justice by effecting genuine settlement(s)."

13. Though one of us (N. B. Suryawanshi, J.) is a party to the Full Bench judgment in **"Maya Sanjay Khandare"** (*supra*), however, in terms of the jurisprudence of precedents as also in terms of the imperatives of Article 141 of the Constitution of India, we are bound to follow the Apex Court decisions in **"Ramgopal"** and **"Ramawatar"** (*supra*).

14. Decisions in **"Ramgopal"** and **"Ramawatar"** (*supra*) are

consistently followed by this Court in ***“Sandeep V/s State of Maharashtra” MANU /MH /4081 /2022; “Baburao Manik Renge V/s State of Maharashtra” MANU/MH/1432/2022; Criminal Application No. 2546 of 2023 (Matin Gaggar Shaikh V/s State of Maharashtra and Another); Criminal Application No. 865 of 2020 (Mahebob Khan s/o Azamt Khan and Others V/s State of Maharashtra and Another); Criminal Application No. 738 of 2022 (Bharat Ramsingh Pawar and Another V/s State of Maharashtra and Another).***

15. Admittedly, in the present matters, the incident in question, which led to prosecution of members of two groups, has occurred due to political rivalry. In the said incident, members of both the parties were injured. The injuries suffered by both the parties do not show any metal depravity or commission of offence of serious nature and this cannot be said to be an offence against the society. The incident has occurred more than 17 years ago and no untoward incident has transpired between the parties either before or after the purported offence, despite parties residing in the same village. Now the parties have amicably settled their dispute outside the Court and have filed joint compromise *purshis* verified before the Registrar (Judicial). Therefore, present case is squarely covered by the observations

in “**Ramgopal**” and “**Ramawatar**” (*supra*).

16. We find that the parties have willingly entered into settlement and the compromise arrived at is genuine. In this view of the matter, to secure ends of justice, we are inclined to accept the compromise entered into between the parties. We are of the considered view that, this is a fit case to invoke powers under section 482 of the Criminal Procedure Code, to quash conviction of Appellants in both the Appeals, by accepting their compromise. Hence, the following order:

ORDER

- I. Criminal Appeal No. 568 of 2011 is allowed. Judgment and order of conviction passed by learned Additional Sessions Judge, Beed on 19th September, 2011 in Sessions Case No. 29 of 2009 is hereby quashed and set aside.
- II. Criminal Appeal No. 579 of 2011 is allowed. Judgment and order of conviction passed by learned Additional Sessions Judge, Beed on 19th September, 2011 in Sessions Case No. 41 of 2009 is hereby quashed and set aside.
- III. The fine amount deposited by the Appellants in both these Appeals shall be confiscated to the Government.
- IV. Appellants in Criminal Appeal No. 568 of 2011 to deposit

cost of Rs.50,000/- (Rupees Fifty Thousand) and Appellants in Criminal Appeal No. 579 of 2011 to deposit cost of Rs.50,000/- (Rupees Fifty Thousand) within three weeks from the date of uploading of this order, which should be given to the three Members Committee consisting of the President of Bar Association, High Court Bench at Aurangabad, Dr. Varale, Medical Officer, Medical Dispensary, High Court Bench at Aurangabad and Registrar (Adm) of the High Court Bench at Aurangabad, which is already constituted. The said Committee to utilize the said amount for Medical Dispensary of High Court, Bench at Aurangabad.

V. In view of this order, Criminal Appeal No. 101 of 2019 filed for enhancement is disposed of.

VI. List the matters for compliance on 25th September, 2025.

[SANDIPKUMAR C. MORE]
JUDGE

[NITIN B. SURYAWANSHI]
JUDGE