



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

CRIMINAL WRIT PETITION NO.1423 OF 2022

1. Shivshankar s/o Laxman Rajapwad,
Age : 29 years, Occu.: Agril.,
2. Laxman s/o Piraji Rajapwad,
Age : 58 years, Occu.: Agril.,
3. Saraswatibai w/o Laxman Totawad,
Age : 33 years, Occu.: Agril.,

All R/o.: Moghali, Taluka : Bhokar,
District : Nanded

... PETITIONERS
(Original Accused)

VERSUS

1. The State of Maharashtra,
Through Police Station Officer,
Bhokar Police Station, Bhokar,
Tq. Bhokar, Dist. Nanded
2. Parwatibai w/o Shankar Rajepwad,
Age : 55 years, Occu.: Agril.,
3. Kailas s/o Shankar Rajepwad,
Age : 35 years, Occu.: Agril.,
4. Shivkanta w/o Anandrao Rajepwad,
Age : 40 years, Occu.: Agril.

Nos.2 to 4 are R/o.: Moghali,
Tq. Bhokar, District : Nanded

... RESPONDENTS

...
Mr. O. B. Boinwad, Advocate for the Petitioners
Mr. P. S. Patil, APP for Respondent No.1-State
Mr. A. B. Kharosekar, Advocate for Respondent Nos.2 to 4
...

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

DATED : 17/11/2025.

P. C. :

1. Heard finally with the consent of the learned advocates for the rival parties.
2. By way of this petition, the petitioners are seeking quashment of the orders passed by the learned Additional Sessions Judge, Bhokar, below Exhibits 40 and 41 in Criminal Appeal No.8 of 2019, whereby the learned Judge refused to compound the offence.
3. Heard the learned counsel for the petitioners, the learned APP for the State, and the learned counsel for respondent Nos. 2 to 4, including the complainant and the injured.
4. It is significant to note that the petitioners and respondent Nos.2 to 4 are now seeking quashment, as stated above, on the basis of a settlement. It is further noted that under the impugned orders, the learned Additional Sessions Judge rejected the applications filed by the petitioners and respondent Nos. 2 to 4 for

compounding the offence merely on the ground that Sections 452 and 294 of the IPC are non-compoundable. However, it is pertinent to note that today the petitioners as well as respondent Nos. 2 to 4 have filed a joint affidavit on record stating that they support the compromise arrived at between themselves before the learned Sessions Court in Criminal Appeal No.8 of 2019. They have stated in the said affidavit that they belong to the same family and that the dispute resulting in FIR No. 166 of 2012 was of a civil nature relating to partition of their ancestral land. Accordingly, they are now seeking quashment of the FIR and the criminal proceedings, even after the conviction, at the appellate stage.”

5. Learned APP though opposed the said petition, but the compromise can be permitted to be recorded even after the conviction. In 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 the instant case, it appears that the petitioners and respondent Nos. 2 to 4 are close blood relatives, being *inter se* cousins and at the instance of relatives and respected persons of the village, they have decided to bury their differences for the purpose of living harmonious life. In view of the ratio laid down by the Hon’ble Apex Court in the aforesaid judgments and considering the contents of the joint affidavit filed by the rival parties, we are of the considered view that this is a fit case for exercising powers under Section 482 of the Cr.P.C. by granting permission to compound the matter. However, at the same time, certain costs

need to be imposed on the petitioners as they have utilized the court machinery and thereafter sought permission to compound the matter at the post-conviction stage. In view of the same, we pass the following order.

ORDER

- A) The petition stands allowed and the petitioners and respondent Nos. 2 to 4 are permitted to compound the offence, subject to payment of costs of Rs. 25,000/- (Rupees Twenty-five Thousand only) to the Advocate's Bar Library, High Court of Judicature at Bombay, Bench at Aurangabad, within a period of two weeks
- B) The conviction of the petitioners in RCC No.31 of 2013 recorded by Judicial Magistrate (First Class), Bhokar, District Nanded under judgment and order dated 20/06/2019 arising out of FIR No.166 of 2012 is hereby quashed and set aside.
- C) Consequently, the orders of the learned Additional Sessions Judge, Bhokar, District : Nanded passed below Exhibits-40 & 41 sand quashed and set aside.

(Y. G. KHOBRAGADE, J.)

(SANDIPKUMAR C. MORE, J.)