



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1865 OF 2023

Narayan Vishnu Vaybhat,
Age 27 yrs., Occ. Agri.,
R/o Vaybhatwadi,
Tq. & Dist. Beed.

... Petitioner

... **Versus** ...

- 1 The State of Maharashtra
Through it's Secretary,
Home Department,
Mantralaya, Mumbai.
- 2 The Police Inspector,
Police Station, Pimpalner,
Tq. & Dist. Beed.
- 3 Anita w/o Dnyaneshwar Jagade,
Age 23 yrs., Occ. Agri.,
R/o Vaybhatwadi,
Tq. & Dist. Beed.

... Respondents

...

Mr. A.N. Nagargoje, Advocate for petitioner

Mr. V.K. Kotecha, APP for respondent Nos.1 and 2

Mr. A.S. Jagtap, Advocate for respondent No.3

...

**CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

RESERVED ON : 30th JULY, 2025

PRONOUNCED ON : 04th AUGUST, 2025

JUDGMENT : (PER : SMT. VIBHA KANKANWADI, J.)

1 Heard learned Advocate Mr. A.N. Nagargoje for petitioner, learned APP Mr. V.K. Kotecha for respondent Nos.1 and 2 and learned Advocate Mr. A.S. Jagtap for respondent No.3.

2 Rule. Rule made returnable forthwith. The writ petition is heard finally with consent of both sides.

3 Present petition has been filed invoking the constitutional powers under Article 226 of the Constitution of India as well as under Section 482 of the Code of Criminal Procedure to get the conviction of petitioner – original accused quashed, which was awarded in Regular Criminal Case No.78/2017 by learned Judicial Magistrate First Class, Beed on 19.12.2022 under Section 354-A(1)(i) and Section 451 of the Indian Penal Code.

4 Present petitioner came to be convicted by learned Judicial

Magistrate First Class, Beed in the said matter and he has been sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.25,000/- for the offence punishable under Section 354-A(1)(i) of the Indian Penal Code. He has been further sentenced to suffer simple imprisonment for two years and to pay fine of Rs.25,000/- for the offence punishable under Section 451 of the Indian Penal Code. In default of payment of fine he has been asked to suffer simple imprisonment for one month, in whole. Set off was granted to him under Section 428 of the Code of Criminal Procedure. The amount of fine was directed to be given to informant after the appeal period is over. Both the sentences were directed to run consecutively. Present petitioner has filed Criminal Appeal No.101/2022 before learned Sessions Judge, Beed challenging the said conviction awarded to him. In the said appeal an application was filed for compounding of the offence by filing compromise pursis on 13.09.2023 at Exh.18. It was stated in the pursis that parties want to maintain the cordial relations in future as they are from the same village as well as they are related to each other distantly. However, learned Appellate Court rejected the application and the pursis stating that the offence is non compoundable and, therefore, the petitioner approached this Court.

Pradesh vs. Laxmi Narayan and others [(2019) 5 SCC 688], wherein the law was summarized, as to under which circumstance when the criminal proceedings is for non compoundable offence under Section 320 of the Code of Criminal Procedure; power conferred under Section 482 of the Code of Criminal Procedure can be exercised by the High Court. He submits that various decisions in the past were considered by the Hon'ble Supreme Court while summarizing the law. Further, he has also relied on **Ramgopal vs. State of Madhya Pradesh** [2022 (1) Mh.L.J. (Cri.) (S.C.) 291], wherein also the guidelines have been prescribed. He also relies on the recent decision in **Madhukar and others vs. The State of Maharashtra and another** with companion matter in Criminal Appeal No(s). of 2025 (arising out of SLP (Cri.) No.7212 of 2025) decided on 14.07.2025, wherein Hon'ble Supreme Court quashed and set aside the offence under Section 376 of the Indian Penal Code by observing that the power of the Court under Section 482 of the Code of Criminal Procedure to secure the ends of justice and it is not constrained by a rigid formula and must be exercised with reference to the facts of each case.

6 Learned Advocate for respondent No.3 – original informant supports petitioner and submits that now the informant and petitioner have decided to maintain good relations. The informant wants to bury the

differences and pardon the petitioner.

7 Learned APP strongly opposes the petition and submits that if such compromise is allowed to be considered after conviction, then it will give a wrong message to the society. This Court is duty bound to consider the settlement post conviction as per the principles those have been summarized by the Hon'ble Supreme Court of India as to when the quashment of the proceedings in non compoundable offence is made as compared to the powers of the Appellate Court under Section 320 of the Code of Criminal Procedure. The facts are required to be considered here. The prosecution story was that the informant was alone in the house on 01.01.2017 and when she was putting on clothes the petitioner entered her house and locked the door from inside and started pulling the informant by holding her arms with bad intention. The informant was resisting but accused did not leave her and dragged her towards bed and molested her and he was soliciting sexual favour. When informant shouted, at that time, accused left and fled from the place of incident. The evidence was led. Present petitioner had the opportunity to cross-examine the witnesses. His statement under Section 313 of the Code of Criminal Procedure was recorded. The submissions on behalf of both sides were considered and then the learned trial Judge held the petitioner guilty for committing both the offence. Thus, when the conviction

is on merits of the case, it need not be disturbed only on account of some compromise post cognizance.

8 Here, we are required to consider firstly the legal position. Of course, learned Sessions Judge had no power to compound the non compoundable offence and, therefore, petitioner had no option but to knock the doors of this Court. Now, the legal position is then required to be considered. In **Laxmi Narayan** (supra) the law was summarized thus -

“15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under :

15.1 That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2 Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

15.3 Similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the

offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

15.4 Offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

15.5 While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.”

8.1 In **Ramgopal** (supra) it is 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, 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. In another case **Ahfaz Ahmad vs. State of Maharashtra** [2020 (1) Mh.L.J. (Cri.) 237] such application for quashment of the conviction was allowed as the incident had occurred due to property dispute. Of course, there is also the decision in

Ramawatar vs. State of Madhya Pradesh [(2022) 13 SCC 635], wherein **Ramgopal** (supra) was also considered and it is observed that -

“We, however, put the further caveat that the powers under Article 142 or under Section 482 of the Code of Criminal Procedure are exercisable in post conviction matters only on the premise that an order of conviction does not attend finality till the accused has exhausted his/her legal remedies and the finality is subjudiced before an Appellate Court.” The pendency of legal proceedings, be that may before the final Court, is *sine qua non* to involve the superior Court’s plenary powers to do complete justice.

8.2 We may also refer to the Full Bench decision of this Court in **Maya vs. State of Maharashtra** [2021(1) Mh.L.J. 613], wherein following questions were framed, which are as under -

“(A) In a prosecution which has culminated in a conviction, whether the power under Section 482 of the Code of Criminal Procedure ought to be exercised for quashing the prosecution/conviction altogether, (instead of maintaining it and considering the issue of modification of the sentence) upon a settlement between the convict and the victim/complainant ?

(B) Whether the broader principles/parameters as set out in **Gian Singh vs. State of Punjab and another** [2013 (1) Mh.L.J. (Cri) (S.C.) 417 = (2012) 10 SCC 303, **Narinder Singh vs. State of Punjab** [2014 (4) Mh.L.J. (Cri.) (S.C.) 241] = [(2014) 6 SCC 466] and **Parbatbhai Aahir and others vs. State of Gujarat** [2018(2) Mh.L.J. (Cri.) (S.C.) 1] = [(2017) 9 SCC 641] have been correctly applied in deciding Udhav

Kisanrao Ghodse, Ajmatkhan Rahematkhan and Shivaji Haribhau Jawanjal ?”

The answer has been given after much discussion and taking into consideration the previous decisions of this Court as well as the Hon’ble Apex Court, which reads thus -

“33. At the conclusion of the criminal trial the Court on finding the evidence on record led by the prosecution to be sufficient to prove the guilt of the accused would proceed to convict the accused. The remedy of challenging the order of conviction is available to the accused by way of an appeal. Any compromise entered into post-conviction for a non-compoundable offence cannot by itself result in acquittal of the accused. Similarly, the Court has no power to compound any offence that is non-compoundable and not permitted to be compounded under Section 320 of the Code. The compromise entered into therefore is just a mitigating factor that can be taken into account while hearing the appeal/revision challenging the conviction and which factor has to be taken into consideration while imposing appropriate punishment/sentence. It is not permissible to set aside the judgment of conviction at the appellate/revisional stage only on the ground that the parties have entered into a compromise. In a given case the appellate Court/revisional Court also has the option of not accepting the compromise. Thus if the judgment of conviction cannot be set aside in an appeal/revision only on the ground that the parties have entered into a compromise similar result cannot be obtained in a proceeding under Section 482 of the Code.

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.”

9 Thus, taking into consideration all these aspects the legal position that is emerging is that for entertaining such petition/application for quashment of the conviction there should be an appeal or revision that is pending, as the case may be. That means, order or conviction ought not to have achieved the finality. The law summarized in **Laxmi Narayan** (supra) reiterated in **Ramgopal** (supra) and, therefore, with these guidelines now the facts are required to be considered. The prosecution story has already been stated while referring to the arguments advanced by learned APP, therefore, we avoid the repetition. Now, respondent No.3 – informant has voluntarily come forward to forgive the petitioner. Though it can be said that outraging

the modesty of a woman is against the society; yet it depends upon the lady to forgive the accused. Therefore, since the case is befitting in the parameters, there is no hurdle for us to accept the compromise. However, certainly, we would impose cost on the petitioner after entire exercise of the matter, that is, the legal steps the compounding is prayed. Hence, following order.

ORDER

- i) Criminal Writ Petition stands allowed.
- ii) Respondent No.3 and petitioner are allowed to compound the offence, consequently, we quash the conviction of petitioner in Regular Criminal Case No.78/2017 by learned Judicial Magistrate First Class, Beed dated 19.12.2022.
- iii) Present petitioner stands acquitted of the offence punishable under Section 354-A(1)(i), 451 of the Indian Penal Code.
- iv) Criminal Appeal No.101/2022 pending before learned Additional Sessions Judge, Beed stands disposed of, as a consequence of setting aside the conviction of petitioner.
- v) Petitioner to deposit cost of Rs.50,000/- (Rupees Fifty Thousand

only) on or before 18.08.2025, with the Registry i.e. the Committee consisting of Dr. Sanjay Warade, Medical Officer, Government Dispensary, High Court of Bombay, Bench at Aurangabad and learned Registrar (Administration), High Court of Judicature at Bombay, Bench at Aurangabad.

vi) It appears that the fine amount was deposited by present petitioner before trial Court on 19.12.2022. Petitioner is allowed to withdraw amount of Rs.25,000/- out of said fine amount i.e. learned Judicial Magistrate First Class, Beed to give amount of Rs.25,000/- from the said amount to respondent No.3 – informant and rest of the amount be returned to the petitioner.

vii) Rule is made absolute in the above terms.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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