2026:BHC-AUG:54675

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO.138 OF 2018

Mahadeo Rangnath Todkar.

...Applicant / accused

- Versus -

The State of Maharashtra.

...Respondent/ State.

…

Shri Ameya Sabnis, advocate h/f Shri Estling S. Murge, Advocate for the applicant / accused.
Shri M.A. Aher, APP for the respondent/ State.

…

CORAM : SUSHIL M. GHODESWAR, J.

Reserved on : 09 October 2026
Pronounced on : 04 November 2026

Per Court :-

1. By this Criminal Revision Application instituted on 14/05/2018 under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (“Cr.P.C.”), the applicant (original accused) challenges the judgment dated 07/05/2018 passed by the learned Sessions Judge, Ambajogai in Criminal Appeal No.49 of 2013. By that judgment, the appeal was dismissed and the judgment dated 20/09/2013 passed by the learned Assistant Sessions Judge, Ambajogai in Sessions Case No.33 of 2013 was confirmed by

which, the applicant stands convicted for the offence punishable under Section 304 Part II of the Indian Penal Code and sentenced to suffer simple imprisonment for two years and to pay compensation of Rs.5,000/- to the widow of the deceased under Section 357(3) Cr.P.C., in default simple imprisonment for three months.

2. As the revision was pending as on 01/07/2024, it continues under the Cr.P.C. by virtue of Section 531(2)(a) of the Bharatiya Nagarik Suraksha Sanhita, 2023.

3. The facts, in brief, are that the applicant had cultivated standing sugarcane crop in his 54 R land in Gut No.77 at village Pathan Mandwa, Tq. Ambajogai, Dist. Beed, surrounded by a 2.5-foot-high barbed wire fencing. On 20/08/2011, at about 7.30 p.m., amidst heavy rain and flooding in the Wan river, one Pandurang Trimbak Adsul (aged about 40 years), who was employed on yearly wages to graze cattle for adjoining landowner Mukund Sonwane (PW-6), came in contact with that fencing while returning home, received an electric shock, and died on the spot. Following inquiry into A.D. No.40 of 2011, Crime No.109 of 2011 was registered with Ambajogai

(Rural) Police Station on 21/08/2011 on the report of his widow, Smt. Mangal (PW-7). After completion of investigation, the charge sheet was filed.

4. During the trial in Sessions Case No.33 of 2013, the prosecution examined eleven witnesses (PW-1 to PW-11). Both the Courts below held that the applicant had left electric supply from the connection at his well into the fencing to keep wild pigs away from the sugarcane crop, with the knowledge that it was likely to cause death.

5. During the pendency of this revision, the widow (Smt. Mangalbai) and the two sons of the deceased (Ganesh and Mahadeo) prosecuted Special Civil Suit No.03 of 2015 under the Fatal Accidents Act, 1855 before the learned Civil Judge, Senior Division, Ambajogai. After a full-fledged trial in which the plaintiffs examined the widow Smt. Mangalbai (PW-1), father-in-law Trimbak Adsul (PW-2), and employer Mukund Sonwane (PW-3), while the applicant examined himself (DW-1) and witness Govind Jadhav (DW-2), and MSEDCL examined its official Nikhil Meshram (DW-3). The learned Civil Judge, Senior Division, Ambajogai, by judgment and decree dated 04/05/2026,

partly decreed the suit for Rs.7,75,000/- with interest at 6% per annum against the applicant alone.

6. In the execution proceedings i.e. Special Darkhast No.07 of 2026, the decree-holders and the applicant filed written compromise dated 29/07/2026, recording receipt of Rs.6,30,000/- in full and final settlement (comprising Rs.4,30,000/- paid in cash and Rs.1,00,000/- transferred via PhonePe into the bank account of son Mahadeo Pandurang Adsul at the filing of the execution petition, and Rs.1,00,000/- paid in cash on 29/07/2026), arrived at before relatives and respectable persons of the village. Before the learned Civil Judge, Senior Division, Ambajogai, the parties were duly identified by their respective independent trial counsel and admitted its contents, whereupon the execution petition was disposed of in terms of the compromise on the same day i.e. 29/07/2026. Clause 3 of the compromise records that the parties would place it before this Court in the present revision. The widow (aged 49) and both adult sons (Mahadeo, aged 30, and Ganesh, aged 29) have also sworn Affidavit before this Court stating that the parents of the deceased have died, no other legal heirs/representative survives,

and they have no objection to an appropriate order in favour of the applicant.

7. In view of the peculiar facts of this case, the learned counsel for the applicant prayed that the conviction be quashed and set aside in view of the verified compromise and the payment of Rs.6,30,000/-.

8. *Per contra*, the learned APP strongly opposed the prayer for quashing the conviction, submitting that the offence under Section 304 Part II of the IPC is non-compoundable under Section 320 of the Cr.P.C. and has resulted in the loss of a human life, which is a crime against society that cannot be wiped out on the basis of a private monetary settlement.

9. After hearing the parties and perusing the available record, it is evident that the offence under Section 304 Part II IPC is not compoundable under Section 320 Cr.P.C. The compromise, therefore, cannot be recorded as a statutory compounding. However, in the decision in ***B.S. Joshi & Ors. v. State of Haryana & Anr., (2003) 4 SCC 675***, the Hon'ble Supreme Court held that Section 320 Cr.P.C. does not limit or affect the plenary inherent powers of the High Court under

Section 482 Cr.P.C. to quash criminal proceedings in non-compoundable offences where the parties have genuinely settled their dispute, and that hyper-technicalities should not prevent the High Court from securing the ends of justice. The ratio of B.S. Joshi (supra) was expressly affirmed by a three-Judge Bench in ***Gian Singh v. State of Punjab, (2012) 10 SCC 303***. Further, in ***Ramgopal v. State of Madhya Pradesh, (2022) 14 SCC 531***, the Supreme Court held that the proceedings involving non-heinous offences or offences lacking mental depravity and predominantly of a private nature, can be annulled under Section 482 Cr.P.C. even after the trial has concluded and the appeal against conviction has been dismissed, having regard to: (i) the nature and effect of the offence on the conscience of society, (ii) the seriousness of the injury, (iii) the voluntary nature of the compromise, and (iv) the conduct of the accused before and after the incident. Such power is exercisable post-conviction while a challenge to the conviction is pending before an appellate or revisional forum (See ***Ramawatar v. State of Madhya Pradesh, (2022) 13 SCC 635***). Notably, Ramgopal (supra) itself arose from a criminal revision.

10. This revision against the appellate judgment is pending before this Bench, which also holds the assignment under Section 482 Cr.P.C. / Section 528 BNSS, and the High Court may exercise its inherent power in the course of its revisional jurisdiction even without a separate formal application (See ***Popular Muthiah v. State, (2006) 7 SCC 296***). This Court is also mindful of the settled proposition that heinous and serious offences involving mental depravity, such as murder, rape, or crimes having profound societal impact, cannot be quashed merely on the basis of a compromise. (See***Gian Singh v. State of Punjab, (2012) 10 SCC 303; State of Madhya Pradesh v. Laxmi Narayan, (2019) 5 SCC 688***). However, as expounded in *B.S. Joshi (supra)* and *Ramgopal (supra)*, the exercise of inherent jurisdiction under Section 482 of the Cr.P.C. is guided by the paramount necessity to secure the ends of justice and to prevent the legal process from degenerating into a weapon of harassment. The gravity of an offence under Section 304 Part II of the IPC cannot be weighed on a rigid scale; the spectrum of culpability ranges from premeditated physical violence to instances of constructive knowledge imputed from a rash act, entirely bereft of personal malice. Therefore, where the substratum of the

offence lacks moral turpitude and is fundamentally rooted in an agricultural mishap, placing such an act on the same pedestal as a heinous crime against society would be legally fallacious. In such peculiar facts, declining to exercise the inherent powers of this Court to honour a genuine, verified settlement would defeat the very object for which Section 482 of the Code was enacted.

11. The tests laid down in B.S. Joshi (supra) and Ramgopal (supra) can be applied to this case. In this case, firstly, the offence arose solely from the attempt of the applicant to protect his standing sugarcane crop from wild pigs. There was no intention to cause the death of the deceased, no personal enmity with him, and no element of mental depravity, moral turpitude, or commercial gain. Over fifteen years have elapsed since the incident of 20/08/2011, and no untoward incident has occurred since. Secondly, the loss of human life is undoubtedly grave. Those who directly bore that loss are the widow and the two sons of the deceased, whose loss of dependency has been adjudicated by the competent Civil Court under the Fatal Accidents Act in Special Civil Suit No.03 of 2015 and substantially satisfied by the payment of Rs.6,30,000/-. Thirdly, the compromise was

formally verified before the learned Civil Judge, Senior Division, Ambajogai on 29/07/2026 in Special Darkhast No.07 of 2026, where the parties were identified by their independent trial counsel and admitted its contents, and is supported by an Affidavit of the widow and both adult sons before this Court. There is nothing to suggest coercion. Fourthly, the applicant faced the trial and the appeal. He suffered arrest during investigation in 2011 as well as 15 days of post-conviction custody from 07/05/2018, when his appeal was dismissed, until 22/05/2018. He has no criminal antecedents and has paid Rs.6,30,000/- to the family of the deceased in addition to fine amount of Rs.5,000/- deposited on 20/09/2013. He is now an elderly villager aged over 73 years. Both families are residents of the same village.

12. In such circumstances, continuing the conviction and sending an aged person back to prison after fifteen years, would serve no useful purpose. In these peculiar facts, this is a fit case to exercise the inherent power of this Court to secure the ends of justice. Hence, the following order:-

O R D E R

(a) The Criminal Revision Application is allowed.

(b) The judgment dated 20/09/2013 in Sessions Case No.33 of 2013 and the judgment dated 07/05/2018 in Criminal Appeal No.49 of 2013, convicting and sentencing the applicant under Section 304 Part II IPC, are quashed and set aside and the applicant Mahadeo s/o Rangnath Todkar stands acquitted of the said charge.

(c) The compensation amount of Rs.5,000/- already deposited by the applicant under Section 357(3) Cr.P.C. before the Trial Court, shall be paid over to the widow Smt. Mangal.

(d) The bail bond, if any, stands cancelled and the surety, if any, stands discharged.

(e) The record and proceedings be sent back to the concerned Court.

kps (SUSHIL M. GHODESWAR, J.)