



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

926 CRIMINAL APPEAL NO. 139 OF 2026

Ajay Nanasaheb Mhaske And Another

VERSUS

The State Of Maharashtra

...

Advocate for Appellants : Mr. N.S. Ghanekar

APP for Respondent/State : Mr.M.A. Aher

...

WITH

CRIMINAL APPLICATION NO. 556 OF 2026

IN APEAL/99/2026

Shaikh Azhar Shaikh Kadir

VERSUS

The State Of Maharashtra And Another

...

Advocate for Applicant : Mr. Vishal Amritlal Bagdiya

APP for Respondent/State : Mr. M.A. Aher

Advocate for Respondent no.2 : Mr. V.D. Sapkal, Sr. Advocate i/b Mr.
A.D. Khedkar

WITH

CRIMINAL APPLICATION NO. 984 OF 2026

IN APEAL/99/2026

Shaikh Azhar Shaikh Kadir

VERSUS

The State Of Maharashtra And Another

...

Advocate for Applicant : Mr. Vishal Amritlal Bagdiya

APP for Respondent/State : Mr. M.A. Aher

WITH

CRIMINAL APPLICATION NO. 1029 OF 2026

IN APEAL/139/2026

Ajay Nanasaheb Mhaske And Another

VERSUS

The State Of Maharashtra And Another

...

Advocate for Applicants : Mr. Ghanekar N.S.

APP for Respondent/State : Mr.M.A. Aher
Advocate for Respondent no.2 : Mr. V.D. Sapkal, Sr. Advocate i/b
Mr.A.D. Khedkar

**WITH
CRIMINAL APPEAL NO. 99 OF 2026**

Shaikh Azhar Shaikh Kadir
VERSUS
The State Of Maharashtra And Another

...

Advocate for Appellant : Mr. Vishal Amritlal Bagdiya
APP for Respondent/State : Mr. M.A. Aher
Advocate for Respondent no.2 : Mr. V.D. Sapkal, Sr. Advocate i/b Mr.
A.D. Khedkar

...

**CORAM : NITIN B. SURYAWANSHI AND
VAISHALI PATIL-JADHAV, JJ.**

DATED : 26th MARCH, 2026.

ORDER :

. Young age immaturity and hot blood has prompted the applicants (original accused nos.1 to 3) to indulge in the incident dated 10.07.2018, in which the applicants and 3 juvenile (children in conflict of law, for short, "CCL") have assaulted Sagar Pramod Hivarde (PW-2). The applicants were, therefore, prosecuted in Sessions Case No.458/2022 and are convicted for the offences punishable under Sections 307, 143, 148, 201 read with 149 of the Indian Penal Code and are sentenced as follows :-

"1. The accused namely; Shaikh Azhar Shaikh Kadir (A-1), Ajay Nanasaheb Mhaske (A-2) and Akash Sakharam Mhaske (A-3) are hereby convicted for the offences punishable under sections 307, 143, 148, 201 R/w section 149 of The Indian Penal Code, vide Section 235(2) of the Code of Criminal Procedure.

2. The accused namely; Shaikh Azhar Shaikh Kadir (A-1),

Ajay Nanasaheb Mhaske (A-2) and Akash Sakharam Mhaske (A-3) are hereby sentenced to suffer rigorous imprisonment for life and to pay fine of Rs.15,000/- each and in default to further suffer rigorous imprisonment for 01 month each for the offence punishable U/sec. 307 R/w. Section 149 of the Indian Penal Code.

3. *The accused namely; Shaikh Azhar Shaikh Kadir (A-1), Ajay Nanasaheb Mhaske (A-2) and Akash Sakharam Mhaske (A-3) are hereby sentenced to suffer rigorous imprisonment for a period of 06 months and to pay fine of Rs.2,000/- each and in default to further suffer rigorous imprisonment for 15 days each for the offence punishable U/sec. 143 R/w. Section 149 of the Indian Penal Code.*

4. *The accused namely; Shaikh Azhar Shaikh Kadir (A-1), Ajay Nanasaheb Mhaske (A-2) and Akash Sakharam Mhaske (A-3) are hereby sentenced to suffer rigorous imprisonment for a period of 02 years and to pay fine of Rs.2,000/- each and in default to further suffer rigorous imprisonment for 15 days each for the offence punishable U/sec. 148 R/w. Section 149 of the Indian Penal Code.*

5. *The accused namely; Shaikh Azhar Shaikh Kadir (A-1), Ajay Nanasaheb Mhaske (A-2) and Akash Sakharam Mhaske (A-3) are hereby sentenced to suffer rigorous imprisonment for a period of 01 year and to pay fine of Rs.1,000/- each and in default to further suffer rigorous imprisonment for 15 days each for the offence punishable U/sec. 201 R/w. Section 149 of the Indian Penal Code.*

6. *All substantive sentences shall run concurrently."*

2. The trial of 3 CCL was separated and on conviction they are released on probation.

3. By filing Criminal Appeal No.139/2026 and Criminal

Appeal No.99/2026, the applicants have challenged their conviction.

4. During pendency of the appeals, Criminal Applications are filed for setting aside their conviction and subsequent acquittal in view of the compromise between the parties.

5. Injured Sagar Pramod Hivarde has filed affidavit stating that the incident in question occurred in the year 2018. At that time, accused no.1 had just attained the age of 18 years. The occurrence was the outcome of sudden provocation and youthful immaturity. Accused no.1 after registration of crime and after his release on bail, has underwent a complete transformation in his conduct and character. He pursued legal education and secured admission in Maharashtra National Law University, Aurangabad in the year 2019 and successfully completed his B.A. LL.B. (Hons.) degree in 2024. He has started practice as an Advocate before the District and Sessions Court. His marriage was solemnized and he is blessed with a boy. He is now leading a responsible family life. Further, it is mentioned that accused nos.2 and 3 are his relatives and they are residents of the same locality. They have also expressed their desire to maintain peace, harmony and cordial relations within the family and community. The victim as well as accused are residing in the same area and continuation of hostility would disturb social peace. It is further stated that the compromise has been arrived voluntarily, without any force, threat, coercion or undue influence. There is no monetary inducement involved. He has therefore no objection if the conviction of the applicants/accused is quashed.

6. Heard learned Advocates for the appellants/applicants, learned A.P.P for the State and learned Senior Advocate for the victim.

7. Learned Advocates for the applicants by relying upon the decisions in the case of *Ramawatar Vs. State of Madhya Pradesh, [(2022) 13 SCC 635]*, *Ramgopal and another Vs. State of Madhya Pradesh, [2022(14) SCC 531]* and the decision of this Court in the case of *Vijay Karbhari Golhar and others Vs. The State of Maharashtra in Criminal Appeal No.568/2011* and connected matters to which one of us (Nitin B. Suryawanshi, J) was a party, submits that taking into consideration the role attributed to the applicants in the incident, the compromise and the ratio in the citations, the applications deserve to be allowed and conviction may be quashed on the basis of compromise.

8. Learned Senior Advocate for the victim supported the applications by relying on relevant paragraphs of the cited judgments.

9. Learned A.PP. strenuously opposed the prayer of the applicants by relying on *State of Madhya Pradesh Vs. Laxmi Narayan and others, [2019 AIR (SCW) 1296]* and submitted that the offence under Section 307 of the I.P.C. would fall in the category of heinous and serious offence, and therefore, the said offence needs to be treated as a crime against the society and not against the individual, and therefore, in view of the ratio in this judgment, the applications deserve to be dismissed. He further submitted that in *Ramawatar (supra)*, the offence was under Atrocities Act, whereas in *Ramgopal (supra)*, the conviction was under Section 326 of I.P.C.. Since in the present case, the applicants are convicted under section 307 of I.P.C. for life, they are not entitled for the relief claimed. He, therefore, prays for dismissal of the applications.

10. The decision in *Laxmi Narayan (supra)* relied upon by learned A.P.P. is considered in *Ramgopal (supra)* and the Apex Court has held as follows :-

"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.PC. 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 sub-lime 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.PC. where the Court is squarely guided by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extra-ordinary power enjoined upon a High Court under Section 482 Cr.PC. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.PC. 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.

20. *Having appraised the afore-stated para-meters and weighing upon the peculiar facts and circumstances of the two appeals before us, we are inclined to invoke powers under Article 142 and quash the criminal proceedings and consequently set aside the conviction in both the appeals. We say so for the reasons that:*

Firstly, the occurrence(s) involved in these appeals can be categorized as purely personal or having overtones of criminal proceedings of private nature;

Secondly, the nature of injuries incurred, for which the Appellants have been convicted, do not appear to exhibit their mental depravity or commission of an offence of such a serious nature that quashing of which would override public interest;

Thirdly, given the nature of the offence and injuries, it is immaterial that the trial against the Appellants had been concluded or their appeal(s) against conviction stand dismissed;

Fourthly, the parties on their own volition, without any coercion or compulsion, willingly and voluntarily have buried their differences and wish to accord a quietus to their dispute(s);

Fifthly, the occurrence(s) in both the cases took place way back in the years 2000 and 1995, respectively. There is nothing on record to evince that either before or after the purported compromise, any untoward incident transpired between the parties;

Sixthly, since the Appellants and the complainant(s) are residents of the same village(s) and/or work in close vicinity, the quashing of criminal proceedings will advance peace, harmony, and fellowship amongst the parties who have decided to forget and forgive any ill-will and have no

vengeance against each other; and

Seventhly, the cause of administration of criminal justice system would remain un-effected on acceptance of the amicable settlement between the parties and/or resultant acquittal of the Appellants; more so looking at their present age."

11. By relying upon the decisions of ***Ramawatar (supra)*** and ***Ramgopal (supra)***, this Court allowed Criminal Appeal Nos.568/2011, 101/2019 and 579/2011 and criminal applications filed therein, thereby allowing the prayer for quashing and setting aside the conviction on the basis of compromise.

12. Coming to the facts of the present case, accused no.1 - Shaikh Azhar and accused no.2 - Ajay Mhaske were 18 years old and accused no.3 - Akash Mhaske was 23 years old at the time of incident. The incident has taken place due to personal dispute and occurrence involved in these appeals can be categorized as purely personal and having overtones of criminal proceedings of private nature. If the evidence of the prosecution is considered, one of the CCL has assaulted the injured with cricket bat on head, which has caused fracture of parietal and occipital bones. Accused no.1 has assaulted the injured by iron rod on the left hand. Ajay Mhaske (accused no.2) and Akash Mhaske (accused no.3) have assaulted the injured with sticks on non-vital parts of the body. The applicants - accused are convicted holding that they were members of unlawful assembly and they shared common object.

13. On going through the prosecution evidence, we are of the

considered view that the evidence falls short of establishing that the applicants shared common object with CCL to commit offence under Section 307 of the I.P.C. Taking into consideration the evidence on record and role attributed to the applicants-accused and injuries caused by them, their conviction under Section 307 read with Section 149 of the I.P.C. cannot be sustained. According to us, they can be convicted for the offence punishable under Section 326 read with Section 34 of the I.P.C.

14. Accused no.1, who was 18 years at the time of incident, has moved on in his life and has completed his law course in Maharashtra National Law University, Aurangabad and after obtaining the law degree, he has started practice in the District Court. He is married and has responsibility of wife and a baby boy. Similarly, accused no.2 - Akash, who was also 18 years old at the relevant time, is married and has two daughters. They have buried their hatchets. There are no criminal antecedents of the applicants-accused. The parties on their own volition, without any coercion or compulsion, willingly and voluntarily have buried their differences and wish to accord a quietus to their dispute.

15. The incident has taken place 8 years before and no untoward incident has transpired between the parties before or after the purported offence, despite the parties residing in the same locality. Since the applicants and injured are residents of the same village and locality and the applicants-accused nos.2 and 3 are closely related to the injured, quashing of conviction will advance peace, harmony and fellowship amongst the parties, who have decided to forget and forgive ill-will and have no vengeance against each other.

16. In the aforesaid backdrop, for the reasons recorded hereinabove and in view of the ratio of *Ramgopal (supra)*, according to us, this is a fit case to exercise inherent powers under Section 482 of Criminal Procedure Code to accept the compromise and quash the conviction. Hence, the following order :-

ORDER

- (a) Criminal Appeal Nos. 139/2026 and 99/2026 are allowed.
- (b) The judgment and order of conviction dated 20.01.2026 passed by learned Additional Sessions Judge, Aurangabad in Sessions Case No.458/2022 is hereby quashed and set aside.
- (c) The appellants in both these appeals stand acquitted. They be released forthwith if not required in any other case.
- (d) The fine amount deposited by the appellants in both these appeals shall be confiscated to the Government.
- (e) The appellants shall deposit cost of Rs.50,000/- each within four weeks from the date of uploading of this order which should be given to the Police Welfare Fund.
- (f) In view of this order, Criminal Application Nos.556/2026, 984/2026, 1029/2026 stand allowed in the aforesaid terms.

. List the matter for compliance on 08.06.2026.

(VAISHALI PATIL-JADHAV,J.)

(NITIN B. SURYAWANSHI,J.)