

(2017) 09 BOM CK 0195
In the Bombay High Court
Case No : 270 of 2002

Chandu alias Ramchandra s/o Vishwanath Pimpalkar	APPELLANT
Vs	
State of Maharashtra through Chandrapur City Police Station	RESPONDENT

Date of Decision : 04-09-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 482](#) - Saving of inherent powers of High Court
[Indian Penal Code, 1860](#), [Section 307](#) - Attempt to murder

Citation : (2017) 09 BOM CK 0195

Hon'ble Judges : Rohit B. Deo

Bench : SINGLE BENCH

Advocate : Rajnish Vyas, N.B. Jawade

Judgement

1. The appellant is assailing the judgment dated 07.05.2002 in Sessions Case 10/1995 delivered by the 4th Additional Sessions Judge, Chandrapur convicting the appellant for offence punishable under section 307 of the Indian Penal Code and imposing sentence of rigorous imprisonment for two years and to pay a fine of Rs.1000/.
2. The appellant and the complainant Shri Sampat Ankush Madavi are present before this Court. The learned counsel Shri Vyas who appears for the appellant assures the Court that he is satisfied about the identity of the complainant. This statement is accepted.
3. The complainant/informant Shri Sampat Ankush Madavi has filed on record an affidavit dated 04.09.2017 stating that during the pendency of the criminal appeal the appellant and the informant and their families have reconciled all differences. The affidavit states that even during the pendency of the appeal the family of the informant and the family of the appellant enjoyed good relations, they used to meet regularly and celebrate various functions together.
4. The informant prays that the criminal proceedings be quashed in the light of

the amicable relations and mutual settlement of differences.

5. The learned Additional Public Prosecutor is right in contending that the conviction cannot be quashed even under section 482 of the Code of Criminal Procedure since the offence of section 307 of the I.P.C. is not compoundable even with the permission of the Court.

6. Shri Vyas, the learned counsel however, invites my attention to the judgment of the Hon"ble Supreme Court in Manohar Singh vs. State of Madhya Pradesh (2014) 13 SCC 75 and in particular to paragraph 8 which reads thus:

8. In the instant case, the appellant is convicted under Section 498A IPC and sentenced to undergo six months" imprisonment. He is convicted under Section 4 of the Dowry Act and sentenced to undergo six months" imprisonment. Substantive sentences are to run concurrently. Even though the appellant and Respondent 2 wife have arrived at a compromise, the order of conviction cannot be quashed on that ground because the offences involved are noncompoundable. However, in such a situation if the court feels that the parties have a real desire to bury the hatchet in the interest of peace, it can reduce the sentence of the accused to the sentence already undergone. Section 498A IPC does not prescribe any minimum punishment. Section 4 of the Dowry Act prescribes minimum punishment of six months but proviso thereto states that the court may, for adequate or special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term which may be less than six months. Therefore, sentence of the appellant can be reduced to sentence already undergone by him.

7. The incident occurred sometime in 1994. There is no reason to disbelieve the statement on oath that the differences between the families of the accused and the informant have been sorted out and reconciled during the pendency of the appeal. No minimum sentence is provided for offence punishable under section 307 of the I.P.C.

8. On an overall view of the matter, and consistent with the observations of the Hon"ble Supreme Court in Manohar Singh vs. State of Madhya Pradesh supra, I am inclined to maintain the conviction and to alter the sentence to imprisonment already undergone as an under trial and then as a convict till this Court granted bail.

9. The Criminal Appeal No.270/2002 is partly allowed and disposed of as such.