

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR**

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.4670 OF 2025

1. Aditya Ganesh Gurav	]	
2. Vaibhav Vishnu Kamble Vashikar	]	
3. Omkar Pradip Patil/Munir	]	Petitioners
versus		
State of Maharashtra and another	]	Respondents

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Mr. Chetan S. Shinde, for Petitioners.

Mr. A.A. Naik, A.P.P, for Respondent No.1 – State.

Mr. Yash P. Gujar, for Respondent No.2.

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**CORAM : M.S. KARNIK &
AJIT B. KADETHANKAR, JJ.**

DATE : 19th DECEMBER, 2025.

ORAL JUDGMENT: [PER M.S. KARNIK, J.]:

1. This is a petition filed for quashing by consent.

2. Heard Mr. Shinde, learned Counsel for the petitioners, Mr. Naik, learned A.P.P for respondent No.1 – State and Mr. Gujar, learned Counsel for respondent No.2 – the first informant/complainant.

3. Three petitioners are the accused in respect of Crime No.424 of 2024 under section 307 r/w 34 of the Indian Penal Code (for short "I.P.C"), Sections 5 and 27 of the Indian Arms Act and section 6 alongwith sections 3 (1) (r), (s) and section 3 (2) (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered with Juna Rajwada Police Station, Kolhapur on 31st May, 2024.

4. The prosecution's case is that the first informant is resident of Shivaji Peth, Kolhapur. The first informant is nineteen years of age and residing with his parents. On 30th May, 2024, at about 9.15 p.m, respondent No.2 - the first informant/complainant was on his way to his residence. Petitioner No.1, brother of "S" was riding the motorcycle. Petitioner No.1 looked at the the first informant angrily. Some of the friends of respondent No.2 had called him at Rajaram Chowk at around 10.00 p.m. Petitioner No.3 (accused No.3) came near the first informant and asked him whether he had a dispute with Aditya Gurav (Petitioner No.1 -Accused No.1). At that point of time, the first informant was advised to settle the dispute with Aditya Gurav. Petitioner No.1 was upset with the first informant's relationship with his sister. The first informant belongs to the backward class. Since the first informant was in relationship with sister of petitioner No.1 - accused No.1, he got annoyed and raised

sword whereupon the first informant started running. Petitioner Nos.1 and 2 chased the first informant. Petitioner No.1 assaulted the first informant on his back. Petitioner No.2, who was then a minor, assaulted the first informant on his head. Petitioner No.3 tried to intervene but he was pushed away by Petitioner Nos.1 and 2. There is no role attributed to petitioner No.3-Onkar. Following are the injuries inflicted;

Sr. No.	Type of Injury	Size & Shape of Injury	Situation over body	Kind of Weapon	Age of Injury	Nature of Injury	Remark
i)	Contused and lacerated wound	4 x 1x0.5 cms	Over vertex (head)	Hard and Blunt	Within 6 Hours	Grievous	Patient was treated under Unit I of Surgeon
ii)	Incised wound	3x2x1 cms	On Right Middle of body	Sharp and Cutting	Within 6 hours	Simple	
iii)	Incised wound	4x2x1 cms	On left middle back	Sharp and cutting	Within 6 hours	Grievous	
iv)	Contused lacerated wound	7x5x2 cms	On left popliteal fossa	Hard and blunt	With 6 hours	Simple	
v)	Contused lacerated wound	2x0.5x0.5 cm	On left wrist	Hard and blunt	With 6 hours	simple	

5. Thus, it is seen that the injuries on the back of the first informant are attributed to petitioner No.1 – accused No.1, whereas injury on the head is attributed to petitioner No.2 who was then a minor. One of the injuries on the back is stated to be grievous in nature. Injury on the head is also stated to be grievous in nature. The first informant was admitted in the hospital for six days.

6. It would thus be seen that the incident was an outcome of love relationship which the first informant had with the sister of petitioner No.1, which petitioner No.1 – Accused No.1 did not like.

7. Learned A.P.P while opposing the petition submitted that the offence is serious and heinous. He submits that having regard to the nature of injuries, offence being against the society, this is not a fit case for quashing by consent. It is further submitted that the charge has been framed and, at the most, trial could be expedited. He submits that the petitioners, in the present facts of the case, must face the trial.

8. At first blush, the submission of the learned A.P.P appears attractive. However, we must bear in mind the principles laid down for quashing of F.I.R by consent while exercising the power conferred on us under section 482 of the Code of Criminal Procedure, 1973 (for short "Cr. P.C"). The Hon'ble Supreme Court in **Narinder Singh and others Vs. State of Punjab and another**,¹ has summed up and laid down the principles by which this Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under section 482 of the Cr. P.C while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal

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proceedings. The principles which guide this Court read thus;

(I) Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

(II) When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or
- (ii) to prevent abuse of the process of any Court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

(III) Such a power is not to be exercised in those prosecutions which involve 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. Similarly, for offences alleged to have been committed under special statute like the 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.

(IV) On the other, those criminal cases having overwhelmingly and pre-dominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

(V) While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

(VI) Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not

against the individual alone. 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 proving 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/delicate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship”.

9. We must bear in mind the aforesaid principles before we proceed to quash the criminal proceedings by consent. The first informant was in a relationship with the sister of petitioner No.1, who was a minor. A case under Protection of Children from Sexual Offences Act, 2012 has been registered against the first informant. The said relationship was not liked by petitioner No.1. This is the reason for assaulting the first informant. Petitioner No.1 has used a sword and the injuries on the back are attributed to him. One of the injuries on the back is grievous in nature. So far as petitioner No.2 is concerned, who was then a minor, has assaulted the first informant on his head. One injury on the head is grievous and other injuries are simple. There is no role assigned to petitioner No.3. No doubt, that

the offence in the present case under section 307 of the I.P.C falls in the category of heinous and serious offences and, therefore, generally treated as crime against society and not against an individual alone.

10. However, we will have to *prima facie* examine the present case as to whether, despite incorporation of section 307 of the I.P.C, the prosecution has collected sufficient evidence to prove the charge under section 307. It is, for this reason, we have to consider the nature of injuries sustained, whether such injuries are inflicted on the vital/delicate parts of the body, nature of the weapon used and the circumstances leading to the commission of the offence. Medical report in respect of the injuries is a guiding factor which we have taken into consideration for this *prima facie* analysis. In this view of the matter, we have to examine whether there is strong possibility of conviction or chances of conviction are remote and bleak.

11. The factors which have swayed us in accepting the case of the petitioners are that, the first informant is a young boy of nineteen years of age. He says that he does not wish to proceed with the prosecution. Petitioner No.1 is twenty two years of age. The first informant was in relationship with petitioner No.1's (accused No.1) sister. It is out of dislike of such relationship, the incident took place.

Blows inflicted by petitioner No.1, though by sharp edged weapon, were not on the vital part though one injury on back is a grievous injury. The petitioner No.2 was a minor who is the author of the injury on the head, a grievous injury.

12. An affidavit has been filed by the first informant wherein it is stated that the parties have amicably resolved and settled the dispute between them. It is stated that misunderstanding which had arisen between the parties has been completely cleared. The first informant and the petitioners have decided to maintain cordial relations and to live peacefully and harmoniously in society without any ill will or grievance against each other. The settlement has been arrived voluntarily, without any coercion, pressure or undue influence by any person.

13. It is submitted across the bar by the learned Counsel for the petitioners and the first informant that elderly members of the family have intervened and persuaded the parties to maintain harmony and cordial relationship in future.

14. In such circumstances, we are satisfied that the first informant is not going to depose against the petitioners. Petitioner No.2 is juvenile in conflict with law. As the first informant is not going to

depose against the petitioners, possibility of conviction appears to be remote and bleak. It is in the interest of all concerned that the criminal prosecution should be quashed. In the facts of the present case, *prima facie*, we are of the opinion that prosecution may not be able to prove charge under section 307 of the I.P.C beyond reasonable doubt. In such view of the matter, we are of the opinion that the petition deserves to be allowed and accordingly is allowed in terms of prayer clause (a), which reads thus;

"A. By way of suitable Writ, Order or direction, Be pleased to Quash and Set aside the FIR in a case of bearing crime no 424/2024 u/s 307 r/w 34 of IPC Section 5 and 27 of Indian Arms Act Section 6 of Prevention of Atrocities Act 1989 along with section 3 (1) (r) (s), 3 (2) (v) (a) Registered with Junarajwada Police station at Kolhapur as the dispute is settled between the Parties".

subject to payment of costs of Rs.10,000/- payable by the petitioners to Police Welfare Fund, details of which are as under:

"President,
Police Welfare Fund,
State Bank of India
Dasara Chowk Branch, Kolhapur
Account Number : 10967003951,
IFSC Code : SBIN0000413.

15. Learned Counsel for the petitioners submits that costs will be paid within a period of two weeks from today.

[AJIT B. KADETHANKAR, J.]

[M.S. KARNIK, J.]