

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 732 OF 2015

Shrishal Hanumantrao Patil and ors.	...Applicants
Versus	
The State of Maharashtra and anr.	..Respondents

Mr. V. V. Purwant i/b. Mr. Vikrant Phatade, advocate for the applicants.
Mrs. U. V. Kejriwal, APP for the State.
Mr. Sachin Deokar, advocate for respondent No.2.

**Coram : RANJIT MORE &
V. L. ACHLIYA, JJ.**

Date : 25th AUGUST, 2015.

P. C. :

Heard learned counsel and learned APP appearing for the respective parties.

2. The application is filed resorting to the provisions of Section 482 of the Code of Criminal Procedure, 1973, for quashing and setting-aside FIR bearing C.R.No.50 of 2014 registered with Mandrup Police Station, Solapur, at the instance of respondent No.2, for the offences punishable under Sections 143, 147, 148, 149, 307, 329, 395, 385, 435, 427 and 504 of the Indian Penal Code, 1860.

3. Pending investigation, the parties settled their dispute amicably and in pursuance of an understanding arrived at between them, have approached this Court for quashing the subject FIR by consent. Respondent No.2/complainant is the Manager of Vishwas Enterprises, on whose behalf, the FIR was registered. Respondent No.2/complainant as well as Vishal Baburao Takmoge, proprietor of Vishwas Enterprises, on whose behalf, respondent No.2 has filed the complaint have filed separate affidavits dated 10th July, 2015 and 24th July, 2015 respectively, wherein they have given their no objection for quashing and setting-aside the subject FIR. Both respondent No.2/complainant as well as Vishal Baburao Takmoge, proprietor of Vishwas Enterprises are personally present before the Court. On being questioned, they specifically stated that they have gone through the contents of the application and affidavits and have understood the same. They further submitted that they have no objection if the subject FIR is quashed and set-aside. They also stated that they are giving no objection for quashing the subject FIR out of free will and without there being any pressure or coercion.

4. The applicants are charged with offences under the provisions of Indian Penal Code, 1860 including the offence under Section 307 of the Indian Penal Code, 1860, which would fall in the category of heinous and serious offence. It is true that the offence under section 307 of IPC is of serious nature and is an offence against the society. Consequently, such an offence cannot be quashed by consent. Nonetheless, it would be advantageous to

refer to Paragraph 28 of **Narinder Singh vs. State of Punjab [2014 AIR SCW 2065]**, wherein the Apex Court has held as under :

"28. Having said so, we would hasten to add that though it is a serious offence as the accused person(s) attempted to take the life of another person/victim, at the same time the court cannot be oblivious to hard realities that many times whenever there is a quarrel between the parties leading to physical commotion and sustaining of injury by either or both the parties, there is a tendency to give it a slant of an offence under Section 307 IPC as well. Therefore, only because FIR/Charge-sheet incorporates the provision of Section 307 IPC would not, by itself, be a ground to reject the petition under section 482 of the Code and refuse to accept the settlement between the parties. We are, therefore, of the opinion that while taking a call as to whether compromise in such cases should be effected or not, the High Court should go by the nature of injury sustained, the portion of the bodies where the injuries were inflicted (namely whether injuries are caused at the vital/delicate parts of the body) and the nature of weapons used etc. On that basis, if it is found that there is a strong possibility of proving the charge under Section 307 IPC, once the evidence to that effect is led and injuries proved, the Court should not accept settlement between the parties. On the other hand, on the basis of prima facie assessment of the aforesaid

circumstances, if the High Court forms an opinion that provisions of Section 307 IPC were unnecessary included in the charge sheet, the Court can accept the plea of compounding of the offence based on settlement between the parties."

5. The decision of the Apex Court, thus, makes it clear that the Court cannot decline to quash the FIR merely because the FIR incorporates a particular provision which is a serious offence or an offence against the society. The Court has to endeavour to find out whether the FIR indeed discloses ingredients of such offence and that the Court can accept the settlement and quash the FIR / Charge-sheet if the Court is of the opinion that such an offence is unnecessarily incorporated in the charge-sheet.

6. Learned counsel for the applicants have placed on record the injury certificate of respondent No.2 -Anil Bhimrao Ghadage. The injury certificate reveals that both the injuries suffered by respondent No.2 are simple in nature and there is no fracture. The injury certificate further reveals that on diagnosis, it is found that there is no fatal injury on the head. C.T. Scan of the chest is also shown as normal. In these circumstances, we are of the opinion that the ingredients of offence under Section 307 of the Indian Penal Code, 1860 are not made out. Consequently, no fruitful purpose will be served by continuing with the prosecution.

7. It can, thus, be seen that the dispute was totally personal

in nature, which has now been settled amicably. In these circumstances and especially in view of law laid down by the Apex Court in the case of **Narinder Singh (supra)**, we find that no purpose would be served by keeping the criminal proceedings pending except burdening the criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the criminal proceedings are required to be quashed. However, at the same time, costs need to be saddled on the parties for using the police and judicial mechanism for settling their personal disputes.

8. Accordingly, the criminal application is made absolute in terms of prayer clause (a) subject to payment of costs of Rs.25,000/- by the applicants. The applicants shall deposit the costs with Kirtikar Law Library and thereafter produce the receipt thereof on the file of this application within a period of four weeks from today, failing which, the criminal application shall stand dismissed automatically without further reference to the Court.

9. Subject to above, the criminal application stands disposed of.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]