

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.944 OF 2014**

Nivrutti Ramchandra Saste & Ors.Applicants.
Versus
Dhananjay Sopan Saste & Ors. ...Respondents.

Mr. P.D.Purway, advocate for the applicants.
Mr. Harshawardhan Arolkar, advocate for the respondent no.2.
Mr. K.V.Saste, APP for the State.

**CORAM : RANJIT MORE AND
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED : April 20, 2015

P.C.:

The learned counsel for the petitioner at the outset, seeks leave to amend prayer clauses so as to give particulars of the Sessions Case. Leave granted. Necessary amendment shall be carried out forthwith.

2 This application is filed invoking provisions of Section 482 of the Cr.P.C for quashing the proceedings of the Sessions Case No.785 of 2014 pending in the Sessions Court at Pune. The said case arises out of the registration of C.R.No.229 of 2013 with MIDC, Bhosari Police Station,

Pune at the instance of the respondent no.1 for the offence punishable under Sections 307, 323 read with Section 34 of the IPC. After completion of investigation, investigation agency filed charge-sheet in the concerned Magistrate's Court, which is numbered as Regular Criminal Case No.192 of 2014. Subsequently, since the charge under Section 307 is exclusively triable by the Sessions Court, the case was committed to the Sessions Court and numbered as Sessions Case No.785 of 2014.

3 During the pendency of the trial, parties settled their disputes amicably and in pursuance of the understanding arrived at between them, filed the said application for quashing the proceedings of the said Sessions case by consent. Respondent nos.1 and 2 have filed separate affidavits. Both the respondents have given no objection to quash the proceedings of the said sessions case. Both the respondents are present in the Court. On specific query they state that they have settled their disputes amicably and have no objection to quash the proceedings of the said criminal case.

4 It is true that the applicants have also been charged for the offence under Section 307 of the IPC, which is serious offence and is the offence against the society. However, in the case of Narinder Singh 2014 Cri.L.J. 2436, the Apex Court has held as follows:

“29.6 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/delegate 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.”

5 In the instant case, FIR reveals that the incident occurred at the spur of the moment. The weapon of offence was a baseball stick which cannot be termed as dangerous weapon. Respondent no.2 had sustained a single injury. Medical records do not show that the injury sustained by the respondent no.2 was sufficient in the ordinary course of nature to cause death. We are, therefore, satisfied that the FIR does not disclose essential ingredients of Section 307 IPC. Be that as it may, parties are related inter-se. The applicant no.1 is the brother of the

respondent no.2. We are also of the view that settlement will bring harmony between the parties and improve their future relationship. Under these circumstances, we are inclined to quash the proceedings of the said case.

6 Petition, accordingly, allowed in terms of prayer clause (b) subject to cost of Rs.10,000/- to be paid to Kirtikar Law Library. Payment of cost would be condition precedent. Cost to be paid within two weeks from the date of receipt of this order. If the cost is not paid within stipulated time, petition to stand dismissed automatically without further reference to the Court.

(RANJIT MORE, J.)

(ANUJA PRABHUDESSAI, J.)