

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 27 OF 2015

Suraj Ramavthar Singh & Ors. ..Applicants

v/s.

The State of Maharashtra & Anr. ..Respondents

**WITH
WRIT PETITION NO. 4971 OF 2014**

Bablya Ganpat Mangela @
Vithoba Ganpat Davne & Ors. ..Petitioners

vs.

The State of Maharashtra & Ors. ..Respondents.

Mr. P.V.Vare for the Petitioner.
Mrs.P.H.Kantharia, APP for the Respondent/State.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI,JJ.
DATED :JANUARY 14, 2015.**

P.C. (PER ANUJA PRABHUDESSAI, J).

1. This is an application under Section 482 of Cr.PC. filed by the aforesaid applicants to quash Sessions Case No.693 of 2011 pending

before the Sessions Court, Mumbai, arising out of C.R.No.293 of 2010 registered with the Santa Cruz Police Station on the FIR/Complaint lodged by the respondent no.2 against the aforesaid applicants for the offence punishable under Section 326, 324, 143, 144, 147, 148, 149, 427 of IPC.

The applicants have also sought to quash C.C.No.2852/PW/2014 pending before the Metropolitan Magistrate's 21st Court, at Bandra, Mumbai, against the applicant no.8, arising out of the same C.R.

2. The respondent no.2 had lodged a complaint with Santa Cruz Police Station, pursuant to which C.R.No.293 of 2010 under Section 326, 324, 143, 144, 147, 148, 149, 427 of IPC were registered against the aforesaid applicants. Upon completion of investigation chargesheet was filed against the applicant nos.1 to 7 before the 21st Court, Bandra, Mumbai, which came to be registered as C.C.No.2852/PW/2014.

3. The applicant no.8 was not arrested in C.R.No.293 of 2010. Hence respondent no.2 filed a criminal writ petition No.1861 of 2012 for further investigation. Pursuant to the order passed in the said writ petition, the applicant no.8 was arrested and subsequently

chargesheet was filed against the respondent no.8 before the Metropolitan Magistrate's 21st Court, Bandra, Mumbai being C.C.No.2852/PW/2014.

4. The applicant no.8 had also filed a complaint against the respondent no.2 pursuant to which C.R.No.291 of 2010 was registered for offence under Section 307, 324, 143, 144, 147, 148, 149 of IPC and under Section 25 of the Arms. Act r/w. 27(1) 135 of the Bombay Police Act. Upon completion of the investigation chargesheet was filed and the case was subsequently committed and registered as Sessions Case No.131 of 2011.

5. The applicants, in Criminal Application No.27 of 2015 and the petitioners in Writ Petition No. 4971 of 2014 have stated that they have amicably settled the matter and have therefore prayed for quashing of the criminal proceeding pending against them before the aforesaid criminal court/sessions court.

6. We have heard learned Counsel appearing for the respective parties. We have also perused the records. The record indicates that the offence registered against the applicants in Criminal Application No.27 of 2015 are personal in nature . The injured

persons have filed affidavit wherein they have given their no objection for quashing the criminal proceedings being FIR No.291 of 2010 and 293 of 2010.

7. Considering the nature of the offence as well as the no objection given by the respondent no.2, and in the light of the principles laid down by the Apex Court in the case of Narinder Singh vs. State of Punjab [2014 AIR SCW 2065] we are of the considered view that continuation of the criminal proceedings in C.R.No.293 of 2010 and Sessions Case No.693 of 2011 would cause great prejudice and hardship to the applicant nos. 1 to 7 and applicant no.8 and would amount to abuse of process of the court.

8. The petitioners in Writ Petition No. 4971 of 2014 are alleged to have committed offence under section 307, 324, 143, 144, 147, 148, 149 of IPC. It is not in dispute that the offence under Section 307 IPC would fall in the category of heinous and serious offences and are generally to be treated as crime against the society. However, as held by the Apex Court, in case of Narinder Singher (supra), the court cannot refuse to quash the crime merely because there is

mention of Section 307 IPC in the FIR. It would be open to the court to examine as to whether the FIR indeed discloses commission of such offence.

9. In the instant case, the record reveals that the petitioner no.1 had inflicted injuries on the chest of the respondent no.2 by means of knife. The medical and other records do not reveal that the said injuries were grievous in nature. On the basis of the prima facie analysis, we are of the view that the FIR and the other material do not disclose commission of offence under Section 307 IPC . Hence, the chances of conviction under Section 307 IPC are bleak and remote. Under the circumstances, in the light of principles laid down by the Apex Court in the case of Narendra Singh (supra) there is no embargo in quashing the said crime.

10. Considering that both the parties have settled their dispute amicably, and considering that the dispute is of personal nature and in view of the law laid down by the Apex Court in the case of Madan Mohan Abbot v. State of Punjab [(2008) 4 SCC 5820] we find that no purpose would be served by keeping the criminal proceeding pending

and burdening the already overburdened courts.

11. Hence, the criminal application and writ petition are allowed. Rule accordingly made absolute in terms of prayer clause (a) subject to the applicants and the petitioners in the aforesaid application and petition, paying an amount of Rs.25,000/-, each to Tata Memorial Hospital towards costs. The applicants and the petitioners shall pay the said amount and produce the receipts thereof on the file of this application and the petition, within a period of two weeks from today.

12. Subject to the above, the criminal application and writ petition stand disposed of.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)