

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1318 OF 2014**

Vikram Chikkana Kalludi
v/s.

..Applicant

The State of Maharashtra & Ors.

..Respondents

Mr. Harshad Ponda a/w. Subhash Jadhav, Chandan Singh Shekhawat
i/b. ALMT Legal for the Applicant.

Mr.K.V.Saste, APP for the Respondent/State.

Mr.V.P.Sawant alw., Prabhakar Jadhav for the Respondent No.2.

Mr.D.S.Bhatia for the Respondent No.3.

CORAM : RANJIT MORE &

SMT. ANUJA PRABHUDESSAI,JJ.

DATED : MARCH 04, 2015.

P.C.

1. Heard learned Counsel for the respective parties. This application is filed for quashing of the proceeding of C.R.No. 185 of 2014 registered with Amboli Police Station, culminating into Sessions Case No. 557 of 2014 for the offence punishable under Section 307 and 354 of the Indian Penal Code and Sections 3 and 27 of the Arms Act. The said C.R. came to be filed against the applicant at the instance of the respondent no.2.

2. The parties are present before the court. The parties, through

their respective counsel, submit that the dispute is settled between them and seek quashment of the CR by consent.

3. Learned Counsel Mr. Ponda submitted that there is no motive on the part of the applicant to commit offence under Section 307 IPC. He submitted that there is no enmity between the parties. He also submitted that the incident occurred in a pub, in a friendly atmosphere. He lastly submitted that the nature of the injury does not support registration of the offence punishable under Section 307 of IPC.

4. We have gone through the FIR lodged by the respondent no.2 against the applicant. A perusal of the FIR discloses that the respondent no.2 complainant was present in the pub, on 30.5.2014. At about 12.15 a.m. a girl from the customers came crying to him and complained that one of the customers misbehaved with her. The respondent no.2 complainant thereafter with his colleague Mr. Rajivkumar Ashokkumar Mandal, who is also Manager, went to the office along with that girl and while the girl was narrating the incident, the applicant forcibly entered the office. Upon the respondent no.2 questioning him regarding the misbehaviour, the

applicant removed a revolver which was concealed in holster to the left leg and fired one gun shot at the respondent, as a result of which he sustained injury on his left upper thigh.

5. The injury certificate is annexed at page 94. It shows that the respondent no.2 received wound on the medial aspect of left upper thigh measuring 1x0.5x0.5 cm. Thus the injury certificate supports the allegations made in the FIR. Apart from the allegations made in the FIR and from the said injury certificate, there are statements of other witnesses which prima facie show that the respondent no.2 has committed offence punishable under Section 307 of IPC. It is also a relevant fact that the applicant had entered the office along with a gun. This is also sufficient to infer his intention.

6. The Apex Court in Narinder Singh & Ors. vs. State of Punjab & Anr. Reported in (2014) 6 SCC 466 has considered the scope of Section 482 of Cr. P.C. The Apex Court in para 29.6 held thus:

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are 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 provisions. 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 the weapons used etc. Medical report in respect of injuries suffered by the victim can generally be 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 further relationship.”

7. Having considered the ratio of the Apex Court in Narinder Singh (supra) the manner in which the offence was committed, and the weapon which is used for the offence, we are not inclined to exercise our power under Section 482 of Cr.P.C. The application is therefore dismissed.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)