

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2726 OF 2016

1. Shaikh Sardar s/o Shaikh Noor,
Age : 60 years, Occ.: Labour,
R/o Adul, Taluka Paithan,
District Aurangabad
2. Shaikh Aref s/o Shaikh Sardar,
Age : 35 years, Occ.: Labour,
R/o Adul, Taluka Paithan,
District Aurangabad
3. Nasrin w/o Shaikh Aref,
Age : 30 years, Occ.: Household,
R/o Adul, Taluka Paithan,
District Aurangabad
4. Shannu w/o Ajij Pathan,
Age : 33 years, Occ.: Labour,
R/o Chinchkhed, Taluka Ambad,
District Jalna
5. Shaikh Ajij s/o Nanekha Pathan
Age : 40 years, Occ.: Labour,
R/o Chinchkhed, Taluka Ambad,
District Jalna

..APPLICANTS

VERSUS

1. The State of Maharashtra,
2. Shaikh Rahin w/o Shaikh Mujib,
Age : 28 years, Occ.: Nil,
R/o Ghodegaon, Tq.
District Ahmednagar

..RESPONDENTS

Mr. Nilesh S. Ghanekar, Advocate for the applicants
Mr. M.M. Nerlikar, A.P.P. for respondent/State
Mr. Shaikh Mazhar Jahagirdar, Advocate for respondent
no.2

**CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.**

**Reserved On : 8th September, 2016
Pronounced On: 23rd September, 2016**

ORDER : (PER : SANGITRAO S. PATIL, J.):

Heard the learned counsel for the parties.

2. Accused nos.2, 4, 5, 6 and 7, who are facing the trial bearing Sessions Case No.422 of 2010, pending before the Additional Sessions Judge, Aurangabad, for the offences punishable under Sections 307, 498-A, 323 read with Section 34 of the Indian Penal Code (for short, "I.P.C."), have prayed for quashment of the said criminal proceedings.

3. For the sake of convenience the parties are hereinafter referred to by the same nomenclatures by which they have been described in the above numbered Sessions Case.

4. The informant (the present respondent no.2) had married to the deceased accused no.1 viz: Shaikh Mujib on 11.05.2008 at village Sonai. Accused nos. 2 and 3 are the parents, accused no.4 is the brother, while accused

no.6 is the sister of the deceased accused no.1. Accused no.5 is the wife of accused no.4. Accused no.7 is the husband of the accused no.6.

5. According to the informant, she was treated properly by her husband and in-laws for a period about 4 to 5 months after the marriage. After they tortured her with a view to compel her to bring one lakh rupees from her maternal home. On 27.03.2010, accused nos.1 to 5 tried to kill her. Due to that she was admitted in Sai Hospital at Aurangabad. Accused nos.5 and 6 had been to the said hospital. They threatened her. The informant lodged a report against the accused persons on 02.04.2010 in the Police Station at Pachod. On the basis of that report, Crime No.I-26 of 2010 (for short, "F.I.R.") came to be registered against them for the above mentioned offences. After conducting the investigation, the accused persons came to be prosecuted for the above mentioned offences by filing the chargesheet in the Court of Judicial Magistrate First Class at Paithan. The learned Judicial Magistrate First Class committed the case to the Sessions Court at Aurangabad for trial. Accordingly, Sessions Case No.422

of 2010 came to be registered against the accused for the above mentioned offences. During the pendency of the above numbered case, the original accused no.1 i.e. husband of the informant committed suicide. Accused no.3 also expired. As such, the proceedings stood abated against both of them.

6. There has been amicable settlement between accused nos.2, 4, 5, 6 and 7 on one hand and the informant on the other. The informant has filed an affidavit admitting the terms of settlement. She has prayed for quashment of the criminal proceedings pending against the present applicants/accused.

7. The learned counsel for the applicants submits that after the demise of accused no.1, the informant has got remarried. He submits that the main allegations were made against the deceased accused no.1. Therefore, after the demise of accused no.1 there was no point in prosecuting the case. In the circumstances, the parties decided to settle the disputes amicably. He further submits that continuation of the criminal proceedings against the present accused would be a futile exercise. Relying on the case of **Narinder Singh & Ors. Vs. State**

of Punjab & Anr. 2014 All.M.R.(Cri) 1886, he submits that the criminal proceedings may be quashed.

8. The learned counsel for the informant also submits that in view of the change in the circumstances after lodging of the F.I.R. by the informant, it would be necessary to quash the criminal proceedings.

9. The informant has signed the terms of settlement, whereby she voluntarily agreed to put the above-numbered criminal proceedings to an end. She further filed an affidavit-in-reply stating that she had filed the F.I.R. against the accused under the heat of anger and that she has no grievance against them. She states that in the interest of better future of her family and that of herself, it is necessary to quash the above-numbered criminal proceedings.

10. Indisputedly, the informant has remarried after the demise of accused no.1 Mujib. She has no grievance whatsoever against the present accused, who are her in-laws. In view of the terms of the settlement between the present accused and the informant, there are no chances of witnesses coming before the Court to support the case

of the prosecution. In fact, the informant alone would be the witness to state about the alleged ill-treatment meted out to her within the four walls of her matrimonial home. When the informant herself voluntarily prays that the criminal proceedings should be quashed, it would be a futile exercise to insist upon continuation of the above numbered criminal proceedings only because the offence under Section 307 of the I.P.C. has been added therein.

11. Considering the facts of the present case, in our view the ends of justice would warrant quashment of the above numbered criminal proceedings. The ratio laid down in the case of **Narinder Singh & Ors.**(supra), is fully applicable to the facts of the present case wherein under the similar circumstances there had been amicable settlement between the contesting parties. Therefore, it was held that in view of the compromise between the parties, there were minimal chances of the witnesses coming forward in support of the prosecution case. The chances of conviction, therefore, appeared to be remote. It was opined that it would be unnecessary to drag such proceedings. The compromise between the

parties, therefore, was accepted and the criminal proceedings were directed to be quashed.

12. In the above circumstances, we allow the application with the following order.

- (i) The criminal proceedings bearing Sessions Case No.422 of 2010 are quashed and set aside.
- (ii) The bail bonds of the applicants/accused are cancelled. The applicants/accused be set at liberty.
- (iii) The Criminal Application is accordingly allowed and disposed of.

Sd/-
[**SANGITRAO S. PATIL**]
JUDGE

Sd/-
[**S.S. SHINDE**]
JUDGE