

sas

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.136 OF 2016

Yuvraj Ganpati Jadhav

..Applicant.

V/s.

The State of Maharashtra and Anr.

..Respondents.

Mr.J.J.Bardeskar for the applicant.

Mrs.U.V.Kejriwal, APP for respondent-State.

Mr.Abhishek Yende for respondent No.2.

**CORAM : RANJIT MORE AND
V.L.ACHLIYA, JJ.**

DATED : 10TH FEBRUARY, 2016

P.C. :-

1. Heard learned counsel for the applicant, learned counsel for the respondent No.2 and learned APP for the State.
2. The application is filed under the provisions of section 482 of the Criminal Procedure Code to quash and set aside the F.I.R. bearing C.R.No.155/2015 for the offences punishable under sections 307, 504, 506 of the Indian Penal Code and under section 25(1)(3) of the Indian Arms Act.

3. The Apex Court in the case of ¹Narinder Singh and Others V/s. State of Punjab and Another has considered the scope of inherent powers of the High Court to quash criminal proceedings involving non-compoundable offences in view of compromise / settlement arrived at between the parties and made the following observations paragraph 29.6, which reads as under:-

“ 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 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

1 (2014) 6 Supreme Court Cases 466

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. "

4. Perusal of the above observation makes it clear that the offence under section 307 would not by itself be a ground to reject a petition for quashing even by consent of the complainant. The Apex Court further observed that the High Court would not rest its decision merely because there is a mention of section 307 of the Indian Penal Code in the F.I.R. 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 of the Indian Penal Code 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 of the Indian Penal Code.

5. In the light of these observations, we have perused the copy of the F.I.R. which is annexed at page 10. The F.I.R. reveals that the applicant was armed with a gun. The complainant was standing on the other side of the canal. The applicant asked the complainant to stop and then pointed out a gun at him and threatened to kill him. The applicant thereafter fired a gunshot at the complainant and also chased the complainant with the gun.

5. In the light of these allegations made in the F.I.R., we are of the opinion that the F.I.R. prima facie discloses commission of an offence punishable under section 307 of the Indian Penal Code. The investigation is still in progress. We are, therefore, not inclined to quash the subject F.I.R. in exercise of our inherent powers under section 482 of the Criminal Procedure Code. The application is, therefore, without any merit and the same is accordingly dismissed.

(V.L.ACHLIYA, J.)

(RANJIT MORE, J.)