

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1325 OF 2015

Mr. Aniket Anil Jadhav and ors.	..Applicants
Versus	
The State of Maharashtra and anr.	..Respondents

Mr. A. D. Joshi i/b. Mr. Mukesh Sirswat, advocate for the applicants.
Mr. K. V. Saste, APP for the State.
Mr. S. S. Deshpande, advocate for respondent No.2.

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

DATE : 7th JANUARY, 2016.

P. C. :

Heard learned counsel appearing for the respective parties and learned APP for the State.

2. The application is taken out resorting to the provisions of Section 482 of the Code of Criminal Procedure, 1973 for quashing and setting-aside the FIR No.I-469/2015 registered with Naupada Police Station, Thane, at the instance of respondent No.2, for the offences punishable under Sections 354, 324, 323, 504 and 307 read with Section 34 of the Indian Penal Code, 1860.

3. Pending investigation, the parties settled their dispute

amicably and have approached this Court for quashing the subject FIR by consent. Respondent No.2 has filed an affidavit. The aggrieved ladies viz. Shobha Namdev Shedge, Sayli Sachin Lad and Supriya Sanjay Shedge have also filed a common affidavit. In their affidavits, they have given no objection for quashing the subject FIR. The first informant as well as aggrieved ladies mentioned hereinabove are present before the Court. On being queried specifically, they stated that the dispute is now amicably settled and they have no objection if the subject FIR is quashed and set-aside.

4. Initially the FIR was registered under Sections 354, 324, 323 and 504 read with Section 34 of the Indian Penal Code, 1860. However, on the basis of supplementary statement of the first informant/respondent No.2, charge under Section 307 of the Indian Penal Code, 1860 is added. The Apex Court in **Narinder Singh and ors. versus State of Punjab and anr. 2014 AIR (SCW) 2065**, has observed that the 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.

5. In the light of the observations of the Apex Court made herein, learned APP produced the investigation papers including medical papers. The medical certificate issued by the Medical Officer, Civil Hospital, Thane, in respect of the injury suffered by respondent No.2/1st informant on the date of incident in question reveals that respondent No.2/1st informant suffered abrasion on parietal region. The size of the injury is 2 X 1 cms and the injury is described as simple. Learned APP having taken instructions makes a statement that respondent No.2/victim was not required to be admitted in the hospital. We have also perused the FIR and relevant statements under Section 161 of the Code of Criminal Procedure, 1973. The assault on respondent No.2 was not premeditated or preplanned. The incident appears to have occurred on the spur of the moment during immersion procession of Goddess Durga. Respondent No.2, aggrieved ladies and the applicants are from the same locality. In

the circumstances, we are of the considered opinion that the offence under Section 307 is not made out.

6. The applicants are personally present before the Court. They are young boys and except applicant No.4, rest of the applicants have no antecedents. One offence is registered against applicant No.4. However, he has been granted anticipatory bail. The applicants voluntarily stated that by way of repentance, they are ready and willing to do some community service. The applicants, however, stated that they are doing job and since Sunday being their weekly off, they will undertake to clean Tekadi Bungalow locality situated at Navpada,Thane, every Sunday for a period of six months between 7.00 am to 11.00 a.m. and 4.00 pm to 7.00 pm under the supervision of investigating officer. The undertaking is accepted. In the above circumstances and especially in the light of consent given by respondent No.2 and the aggrieved ladies, we quash the FIR No.I-469/2015 subject to payment of costs of Rs.5,000/- by each of the applicants to Tata Memorial Cancer Hospital, Mumbai for the use of its philanthropic purposes and, thereafter, produce the receipts thereof on the file of this Court within a period of two weeks from today, failing which, the criminal application shall stand dismissed automatically without further reference to the Court.

7. The community service which the applicants have undertaken to render shall be monitored by the investigating officer who shall submit the report to the Registrar (Judicial) every month.

8. It is made clear that this order should not be construed as admission by the applicants of their guilt and same shall not come in the way as disqualification of the applicants for seeking future employment.

9. Subject to above, the criminal application stands disposed of.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]