

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.638 OF 2017

- 1) Vishwanath s/o Kondiba Vaidya,
Age-48 years, Occu:Labour,
- 2) Kailas s/o Vishwanath Vaidya,
Age-30 years, Occu:Labour,
- 3) Vilas s/o Vishwanath Vaidya,
Age-30 years, Occu:Labour,
- 4) Mankarna w/o Vishwanath Vaidya,
Age-42 years, Occu:Labour,

All R/o-Adgaon, Tq-Basmath,
Dist-Hingoli.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through Police Station Incharge,
Hatta, Tq. & Dist-Hingoli,
- 2) Gulab s/o Subhanrao Kharate,
Age-38 years, Occu:Grocery Business,
R/o-Adgaon, Tq-Basmath, Dist-Hingoli,
- 3) Manik s/o Subhanrao Kharate,
Age-40 years, Occu:Agri.,
R/o-Adgaon, Tq-Basmath, Dist-Hingoli.

...RESPONDENTS

...
Mr.N.B. Patekar Advocate h/f. Mr. P.R.
Katneshwarkar Advocate for Applicants.
Mr.M.M. Nerlikar, A.P.P. for Respondent No.1.
Mr.Fayaz K. Patel Advocate for Respondent No.2.
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**CORAM: S.S. SHINDE AND
K.K. SONAWANE, JJ.**

DATE : 2ND MARCH, 2017

ORAL ORDER :

1. Rule. Rule made returnable forthwith and heard finally with the consent of the learned counsel appearing for the parties.

2. This Application is filed by the Applicants praying therein to quash and set aside the proceeding of charge-sheet bearing R.C.C. No.206 of 2006 pending before the learned J.M.F.C. Court No.3, Basmath, Dist-Hingoli arose on the basis of Crime No.33 of 2006 for the offence punishable under Sections 448, 324, 323, 504, 506 read with 34 of the Indian Penal Code.

3. Pursuant to the notice issued to the Respondents, Respondent Nos.2 and 3 have caused appearance through learned counsel. The Applicants and Respondent Nos.2 and 3 have filed the joint affidavit duly sworn and verified before the Registrar (Judicial) of this Court. It is stated in the said affidavit that the incident had taken place in sudden provocation and now the parties have settled their dispute amicably and their relations are cordial. It is also stated in Para 4 of the affidavit that the Applicants have undertaken that henceforth they will live peacefully and maintain the cordial relations and they have also undertaken that henceforth they will not create the litigation against each others and will live in co-operation.

4. We have interacted with the Applicants who are present in the Court and they have assured this Court that henceforth they will not indulged in alleged activities like in past.

5. Respondent Nos.2 and 3 are also present in the Court. They have stated that it is their voluntary act to enter into compromise and on the basis of said settlement/ compromise, they have no objection to quash the First Information Report and consequent proceedings based upon the said First Information Report.

6. In that view of the matter and considering the fact that except offence under Section 324 of the I.P. Code all other alleged offences are compoundable, we are of the opinion that in order to prevent the abuse of process of Court, the settlement deserves to be accepted and further proceedings deserve to be quashed. Since Respondent Nos.2 and 3 are not going to support the prosecution case and therefore, further continuation of proceedings will be exercise in futility and wastage of valuable time of the Court. In that view of the matter, keeping in view

the exposition of law by the Supreme Court in the case of ***Gian Singh Vs. State of Punjab and another***¹, we are inclined to allow this Application.

7. Rule is made absolute in terms of prayer clause (B) to the Application. Criminal Application stands disposed of, accordingly.

[K.K. SONAWANE, J.]

[S.S. SHINDE, J.]

asb/MAR17

¹ 2012(4) Bom.C.R.(Cri) 428